SENATE

TUESDAY, JUNE 11, 1935

(Legislative day of Monday, May 13, 1935)

The Senate met at 11:30 o'clock a. m., on the expiration of the recess, and the President pro tempore assumed the chair.

THE JOURNAL

On request of Mr. BARKLEY, and by unanimous consent, the reading of the Journal of the proceedings of the calendar day Monday, June 10, 1935, was dispensed with, and the Journal was approved.

PETITIONS AND MEMORIALS

The PRESIDENT pro tempore laid before the Senate the following joint resolution of the Legislature of the State of California, which was referred to the Committee on Finance:

Senate Joint Resolution 21, relative to exemption from taxation of bonds issued by governmental agencies and memorializing the President and Congress of the United States to take immediate steps for the termination of the exemption of such securities from taxation

Whereas the exemption from taxation of bonds issued by the Federal, State, and local Governments has progressed to such a point that there are now outstanding tax-exempt securities of this character amounting to the aggregate par value of approximately $45,000,000,000; and

Whereas such securities are owned and held by a very small percentage of the population of the country and there results a great and most unjust disproportion in the bearing of the cost of government as between the owners and holders of various types and classes of property; and

Whereas it is a fundamental principle of government that one group or class should not be favored as are the owners of these tax-exempt securities, and all persons enjoying the order and protection which government affords should share fairly, equally, and equitably in bearing the cost of government: Now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the legislature of this State hereby memorialize the President and Congress of the United States to consider and enact such legislation and to propose such amendment or amendments to the Constitution of the United States as may be found suitable and appropriate effectively to prevent the further exemption from taxation of any and all bonds and other evidences of indebtedness issued by the Federal, State, and local governments, to the fullest extent that the President and the Congress may have power so to do, and that the Members of the Senate and of the House of Representatives from California are hereby urged and requested to use all honorable means in furtherance of the consideration and enactment of such legislation; and be it further

Resolved, That copies of this resolution be forthwith transmitted to the President of the United States, the President of the Senate, the Speaker of the House of Representatives, and the Members of the House and Senate from the State of California.

The PRESIDENT pro tempore also laid before the Senate a certified copy of Act No. 190 of the Legislature of the Territory of Hawaii (regular session of 1935), creating the Hawaii Housing Authority, providing for its powers and duties; authorizing it to engage in slum clearance or projects to provide dwelling accommodations for persons of low income; authorizing it to acquire property by purchase, gift, or eminent domain; authorizing it to borrow money, issue bonds and other obligations, and give security therefor; conferring remedies on obligees of the authority; providing that the bonds of the authority shall be legal investments; and providing that the authority, its projects, and securities shall be tax exempt, which was referred to the Committee on Territories and Insular Affairs.

The PRESIDENT pro tempore also laid before the Senate petitions of sundry citizens of the United States, praying for an investigation of charges filed by the Women's Committee of Louisiana relative to the qualifications of the Senators from Louisiana (Mr. LONG and Mr. OVERTON), which were referred to the Committee on Privileges and Elections.

He also laid before the Senate a resolution adopted by the Scandinavian Civic League, San Francisco, Calif., favoring the enactment of House Joint Resolution 122, requesting the President to proclaim throughout the United States the 9th day in October of each year as Leif Erikson Day, which was ordered to lie on the table.

He also laid before the Senate petitions of sundry citizens, being rank and file veterans and their supporters, of New York City, N. Y., praying for the enactment of legislation providing for the immediate cash payment in full of adjusted-service certificates of World War veterans, which were ordered to lie on the table.

He also laid before the Senate the petition of Local Union No. 2518, United Workers of America, of Gatliff, Ky., praying for the enactment of the so-called "Guffey bill" to stabilize the bituminous coal mine industry, and so forth, and also the so-called "Wagner labor-disputes bill", which was ordered to lie on the table.

He also laid before the Senate a resolution adopted by the Board of Supervisors of the County of Los Angeles, Calif., memorializing the President of the United States to make ample provision for the encouragement of the artistic, cultural, humane, patriotic, and sentimental phases of American national life in the Federal-works program by the employment of white-collar workers, which was ordered to lie on the table.

He also laid before the Senate a resolution adopted by a meeting of 500 citizens of San Antonio, Tex., and representatives of nearby communities, assembled at a victory banquet, favoring the enactment of House Joint Resolution 293, providing for the establishment of a commission to be known as the "United States and Texas Centennial Commission", and the making of an appropriation of $3,000,000 to fulfill the purposes of the joint resolution, which was ordered to lie on the table.

Mr. COPELAND presented a resolution adopted by the Credit Association of Western New York, Buffalo, N. Y., opposing any amendment of the Federal banking law at the present time, which was referred to the Committee on Banking and Currency.

He also presented a resolution adopted by the Chenango County (N. Y.) Dairymen's League Cooperative Association, protesting against the enactment of legislation delegating to Federal Reserve banks power to coin money and regulate the value thereof, which was referred to the Committee on Banking and Currency.

He also presented a letter from George A. Barnewall, president of the Kings County Bankers' Association, New York, enclosing a report of the legislative committee of that association containing recommendations for certain proposed amendments to the so-called "Banking Act of 1935", which, with the accompanying paper, was referred to the Committee on Banking and Currency.

He also presented a resolution adopted by Aviators' Post, No. 743, the American Legion, New York City, N. Y., favoring the enactment of the so-called "McSwain bill", being House bill 7041, to create a Department of Air to be administered by a Secretary of Air, which was referred to the Committee on Commerce.

He also presented a resolution adopted by Council No. 114, Sons and Daughters of Liberty, of Salt City, N. Y., protesting against the enactment of House bill 6795, the so-called "Kerr bill", pertaining to the deportation of aliens, which was referred to the Committee on Immigration.

He also presented petitions of sundry citizens of the State of New York, being members and friends of Auxiliaries of the United Spanish War Veterans, Brooklyn, N. Y., praying for the enactment of House bill 5541, known as the "American Flag Act", which were referred to the Committee on the Judiciary.

He also presented a resolution adopted by Court No. 830, Catholic Daughters of America, of Canandaigua, N. Y., protesting against the adoption of the so-called "Pierce amendment" to Senate bill 1541, to punish persons knowingly causing the delivery by mail of certain nonmailable matter (pertaining to birth control), which was referred to the Committee on the Judiciary.

He also presented a resolution adopted by David J. O'Connell Post No. 2264, Veterans of Foreign Wars of the United States, Ozone Park, N. Y., favoring the enactment of the joint resolution (S. J. Res. 115) designating the last Sunday in September as "Gold Star Mother's Day", and for other purposes, which was referred to the Committee on Military Affairs.

He also presented a resolution adopted by the board of directors of the Chamber of Commerce of Ithaca, N. Y., protesting against the enactment of Senate bill 2796, known as the "Public Utility Act of 1935", which was ordered to lie on the table.

He also presented a petition of sundry citizens, being employees of the Michael J. Leo Department Store, of Oswego, N. Y., praying for the adoption of an amendment to the Constitution permitting the setting up of codes of fair competition for industry, which was ordered to lie on the table.

He also presented a resolution adopted by the Chenango County (N. Y.) Dairymen's League Cooperative Association, protesting against the enactment of legislation placing the operation of motor trucks under license and franchise of the Interstate Commerce Commission, which was ordered to lie on the table.

He also presented a resolution adopted by a meeting of 2,500 workers of the city of Syracuse, N. Y., held under the auspices of the Central Trades and Labor Assembly, favoring the enactment of legislation permitting the setting up of codes of fair competition for industry, which was ordered to lie on the table.

He also presented a resolution adopted by a meeting of 2,500 workers of the city of Syracuse, N. Y., held under the auspices of the Central Trades and Labor Assembly, favoring the workers of the Nation becoming members of bona fide labor unions, so as to maintain the principle of collective bargaining, which was ordered to lie on the table.

REPORTS OF COMMITTEES

Mr. JOHNSON, from the Committee on Immigration, to which was referred the bill (H. R. 6464) to provide means by which certain Filipinos can emigrate from the United States, reported it with an amendment and submitted a report (No. 849) thereon.

Mr. McADOO, from the Committee on Patents, to which were referred the following bills, reported them each without amendment and submitted reports thereon:

S. 1794. A bill to effectuate certain provisions of the International Convention for the Protection of Industrial Property as revised at The Hague on November 6, 1925 (Rept. No. 850); and

S. 1795. A bill to effectuate certain provisions of the International Convention for the Protection of Industrial Property as revised at The Hague on November 6, 1925 (Rept. No. 851).

Mr. FRAZIER, from the Committee on Indian Affairs, to which was referred the bill (S. 1440) to enroll on the citizenship rolls certain persons of the Choctaw and Chickasaw Nations or Tribes, reported it with amendments and submitted a report (No. 852) thereon.

Mr. FLETCHER. From the Committee on Banking and Currency I report back with an amendment the joint resolution (S. J. Res. 146) to extend from June 16, 1935, to June 16, 1938, the period within which loans made prior to June 16, 1933, to executive officers of member banks of the Federal Reserve System may be renewed or extended.

ENROLLED BILLS PRESENTED

Mrs. CARAWAY, from the Committee on Enrolled Bills, reported that on the 10th instant that committee presented to the President of the United States the following enrolled bills:

S. 209. An act for relief of Carmine Sforza;

S. 1305. An act to further extend relief to water users on United States reclamation projects and on Indian irrigation projects; and

S. 2536. An act providing for the suspension of annual assessment work on mining claims held by location in the United States.

EXECUTIVE REPORTS OF COMMITTEES

As in executive session,

Mr. FLETCHER, from the Committee on Banking and Currency, reported favorably the nomination of John H. Fahey, of Massachusetts, to be a member of the Federal Home Loan Bank Board for the term of 6 years from July 22, 1935. (Reappointment.)

Mr. HARRISON, from the Committee on Finance, reported favorably the nomination of Dr. Theodore J. Bauer to be assistant surgeon in the United States Public Health Service, to take effect from date of oath.

Mr. WALSH, from the Committee on Finance, reported favorably the nomination of William M. Welch, of Northampton, Mass., to be collector of internal revenue for the district of Massachusetts, to fill an existing vacancy.

Mr. McKELLAR, from the Committee on Post Offices and Post Roads, reported favorably the nominations of sundry postmasters.

The PRESIDENT pro tempore. The reports will be placed on the Executive Calendar.

BILLS AND JOINT RESOLUTION INTRODUCED

Bills and a joint resolution were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. WALSH:

A bill (S. 3029) to increase the efficiency of the United States Navy, and for other purposes; to the Committee on Naval Affairs.

By Mr. COPELAND:

A bill (S. 3030) granting the consent of Congress to the Rockland-Westchester Hudson River Crossing Authority, State of New York, to construct, maintain, and operate a highway bridge and causeway across the Hudson River between a point in the vicinity of the village of Nyack, Rockland County, and the village of Tarrytown, Westchester County, N. Y.; to the Committee on Commerce.

By Mr. McADOO:

A bill (S. 3031) to exempt from taxation receipts from the operation of Olympic games if donated to the State of California, the city of Los Angeles, and the county of Los Angeles; to the Committee on Finance.

A bill (S. 3032) for the relief of John G. DeMuth; to the Committee on Military Affairs.

By Mr. BLACK:

A bill (S. 3033) for the relief of Lula G. Sutton and others; to the Committee on Claims.

By Mr. JOHNSON:

A bill (S. 3034) granting an increase in pension to Miriam Glanville Skelly; to the Committee on Pensions.

By Mr. KING:

A bill (S. 3035) to provide for enforcing the lien of the District of Columbia upon real estate bid off in its name when offered for sale for arrears of taxes and assessments, and for other purposes; to the Committee on the District of Columbia.

By Mr. FRAZIER:

A joint resolution (S. J. Res. 147) creating a joint committee to investigate Federal liquor control and methods practiced in defrauding the Federal Government of taxes due from liquor sales; to the Committee on the Judiciary.

CONSTITUTIONAL CHANGES—ATTITUDE OF SOUTH CAROLINA

During the delivery of Mr. DIETERICH's speech, which appears elsewhere in today's RECORD,

Mr. SMITH. Mr. President, will the Senator from Illinois yield to me to place in the RECORD an editorial in connection with which I wish to make a brief observation? It will take but a few minutes.

Mr. DIETERICH. I yield.

Mr. SMITH. Mr. President, sometime last week my colleague [Mr. BYRNES] delivered an address in South Carolina. Upon his return he was quoted by the Associated Press as making a statement that is incorporated in the editorial to which I have referred. The editorial appeared in a newspaper published in my State, which has been a very enthusiastic supporter of the present administration and of all its activities. The startling statement was made, as will be seen by a reading of the editorial, that South Carolina was enthusiastically behind the new deal—and I am not saying "yes" or "no"—even to the extent of favoring an amendment to the Constitution, if necessary, to carry it out.

I challenge that statement, and, as we are now in the midst of a discussion of the action of the Supreme Court and the

result of its decision on various legislative proposals we are considering, as to whether or not they run counter to the reserved powers of the States, and as the speech of my colleague has been put in the RECORD, though I have not read it, and, as the comment of the Associated Press upon his return was so astounding to me, coming from my State, South Carolina, I want this editorial——

Mr. DIETERICH. Mr. President——

Mr. SMITH. I hope the Senator will yield to me for a moment or so further.

Mr. DIETERICH. I remind the Senator that under the unanimous agreement time is running against me.

Mr. SMITH. Very well; then I will discuss the matter further in my own time. I ask unanimous consent now that the editorial to which I have referred may be printed in the RECORD, and at some other time during the day I will read it if opportunity shall afford.

Mr. LONG. Mr. President, what is the editorial about?

Mr. SMITH. It was about State rights. What else did the Senator expect it to be?

Mr. SMITH subsequently said: Mr. President, earlier in the day I offered for printing in the RECORD an editorial which appeared in a newspaper published in my State. I had intended at this time to make some remarks in reference to it, in order that it might be incorporated not in the Appendix but in the body of the daily RECORD with the remarks I made this morning in reference to it.

In order not to take the time of the Senate to read it, I ask unanimous consent that the article be incorporated in the RECORD just after the remarks I have made in reference to it.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

The editorial is as follows:

[From the Columbia (S. C.) State of Monday, June 10, 1935]

THE STATE OR SENATOR BYRNES GREATLY MISTAKEN ABOUT SOUTH CAROLINA'S "PUBLIC OPINION"

Quite surprising news about South Carolina comes to us via that Associated Press dispatch from Washington published on Saturday. Here are the extracts that figure as the more notable eye-openers:

"President Roosevelt was represented today as intensely interested in the reception accorded by South Carolina, heart of the traditional State rights South, to a speech by Senator BYRNES suggesting a constitutional amendment to validate the new deal.

"BYRNES returned from his home State reporting that despite its traditions, it was 'enthusiastically behind the President' and would support any move he made, even to a change in the Constitution, if it was found necessary 'to preserve the progress that has been made.'

"The Senator told questioners today he was 'surprised at the unanimity of view' in sympathy with his statement.

"I didn't find anyone opposed except those who were opposed originally to N. R. A. and opposed to the progressive new-deal legislation that has been enacted", he said. "They have a hope that the President will find a way to preserve the progress that has been made. But if he can't under the Supreme Court decision they are with him in any efforts that are made to make certain that the gains are retained."

We do not know, of course, with whom Senator BYRNES conferred while in South Carolina, but had his field of inquiry not been narrow, he must surely have found warm friends of the President, and strong advocates of the spirit and purposes of the National Recovery Act, who are upset, not to say greatly mentally disturbed, by the suggestion that a fight be inaugurated to change the Constitution.

The State's impression may not be valuable, but it is that there is no "public opinion" on that issue in South Carolina at this time, for the reason that the suggestion that the Constitution be changed has not been taken here with sufficient seriousness to incite that discussion which would be a necessary preliminary to the forming of a "public opinion", one way or another.

Another impression is that our people have no doubt about the quality of the President's heart; they know it beats for humanity, and because of that belief they are willing to go with him a long way, but that before taking such a momentous step as changing their form of government, they will wish to look ahead and see the end of the trail; and seeing it, ponder whether that place is where they wish to go, and be unable to turn back.

Another impression is that there are those who do not think much or care much about such matters, and have no particular objection to Washington having full powers outside the election of county officers, but who are not interested in what Washington may do for them "with increased powers" 8 or 10 years hence. These want the best that can be done for them with the tools now available.

Not a great many persons have referred to the matter of changing the Constitution in the presence of this writer, but not one has done so with approval, much less with enthusiasm.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Chaffee, one of its reading clerks, announced that the House had passed without amendment the following bills of the Senate:

S. 410. An act to provide fees to be charged by the recorder of deeds of the District of Columbia, and for other purposes; and

S. 2100. An act to amend an act of Congress entitled "An act to establish a Code of Law for the District of Columbia", approved March 3, 1901, as amended, by adding three new sections to be numbered 802 (a), 802 (b), and 802 (c), respectively.

The message also announced that the House had passed the bill (S. 2591) for the relief of Lyman C. Drake, with an amendment, in which it requested the concurrence of the Senate.

The message further announced that the House had passed the following bills and joint resolution, in which it requested the concurrence of the Senate:

H. R. 5809. An act to amend an act entitled "An act to control the manufacture, transportation, possession, and sale of alcoholic beverages in the District of Columbia";

H. R. 7526. An act to amend the act approved February 20, 1931 (Public, No. 703, 71st Cong.), entitled "An act to provide for special assessments for the paving of roadways and the laying of curbs and gutters"; and

H. J. Res. 320. Joint resolution to extend from June 16, 1935, to June 16, 1938, the period within which loans made prior to June 16, 1933, to executive officers of member banks of the Federal Reserve System may be renewed or extended.

FAITH IN AMERICA—ADDRESS BY SENATOR BYRD

Mr. TYDINGS. Mr. President, the junior Senator from Virginia [Mr. BYRD] yesterday delivered at William and Mary College a very able address on the subject of State rights. I ask that it be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

It is a great privilege for me to be here. The pleasure of my visit is the greater because I witness the high honor of your degree conferred upon my colleague, Senator GLASS.

He comes here today in the full flower of his developed powers and combines in his strong character and vigorous intelligence the mellowed wisdom of experience with the confident outlook of youth. He is that rare product of our political life—a statesman without fear and without reproach. Among his colleagues he is the most beloved and respected Member of the Senate of the United States.

I recall a similar honor conferred upon me by the College of William and Mary, but the difference is that I received my degree, not for any achievements of my own but merely because tradition required that a degree conferred upon the President of the United States made appropriate a similar honor to the then Governor of Virginia, while Senator GLASS is honored because in every household in America his name means the conception of the highest type of public official—a gentleman unafraid; a statesman whose life and character provide an inspiration for those who still believe a man can continue in public office and be true to his convictions and patriotic impulses of high public duty.

And he comes to be honored by an institution that is itself older than our national independence; an institution whose courses of instruction helped to shape and develop some of the men who achieved our independence; but an institution that has found the fountain of youth and goes forward today with strength and optimism under leaders who face the rising sun of increasing service. This sun shines this moment in the face of your progressive new president, and back of him are the memories, the achievements, the traditions of many years of most valuable public service of this ancient college.

Today many people are inclined to ridicule maxims in the form of pointed truths that are obvious. These truths may be obvious, but they are so often honored in the breach rather than in the observance that repeating them is good for us as industry, perseverance, and thrift are equally essential for success today as ever before.

Here in Williamsburg at the Raleigh Tavern, a very wise man wrote the Bill of Rights which is now a part of the constitution of nearly every State of the Union. George Mason in this document for the preservation of liberty said:

"That no free government or the blessings of liberty can be preserved to any people but by firm adherence to justice, modera-

tion, temperance, frugality, and virtue, and by frequent recurrence to fundamental principles."

These fundamental truths, my friends, are just as valid today as when George Mason uttered them, and their application offers the only sure road to happiness and success.

Just as there is no royal road to learning there is no substitute for industry and hard work if we as a Nation or as individuals are to continue our forward march of progress. The economic law that what you spend you must pay has existed since the beginning of time.

Such homely truths; that your happiness depends upon a balanced budget in your personal affairs applies with equal force to a State or the Nation; that to succeed you must do today's work today and not tomorrow; that you must develop a system by which you work and avoid haphazard methods; these may be called by some "prep school" stuff, but their practice is of the stuff that makes success.

You will go into a world of toil and tumult where the fight is fierce and requires that you deny your appetites and strengthen your spirits and discipline your powers until you are in the pink of condition to make good. If you do this you should win, for remember that America is still a land of opportunity. No one can justify failure here with the excuse that success if based on "pull" and that only the privileged can succeed. Hundreds of leaders in both business and the professions have risen from the bottom to eminence by their own ability to climb and not pull from above.

Let no one destroy your faith in America, but let no one deny your right to censure things that tend to lessen your faith in America. However much government has interfered with private business the individual is still free here to say what he thinks, to cherish the religious convictions he prefers, to appeal to honest courts to safeguard his personal liberty and to protect his private property. He lives under a government of laws and not of men and is protected, even when part of a minority, by a constitution that builds barriers against the exercise either by Congress or Presidents, legislatures or governors, of undue, oppressive, or dangerous powers.

You may not appreciate as you should the value to you of these fundamental American institutions because you have always enjoyed them like the air you breathe. Take away part of the air and you suffer; take away some of your liberties and you are ready to fight to regain them. If you would appreciate your liberties here, compare them with the restrictions under which you would live in many other countries. Italy beckons with the charm of her present culture and the greatness of her past; but freedom of opinion and the press are denied and both labor and capital are regulated strictly by the iron hand of a dictator. Mussolini is a great ruler of extraordinary courage and capacity. All of us applaud his poise and the power of his leadership through the last 5 years of economic difficulty and distress, but no true American would be satisfied for a day to be denied the right to criticize governmental action or to join a party in opposition to the Government's policies and acts. But you would be denied this freedom in Italy, and if you quoted Jefferson's declaration that freedom of speech and opinion were among your inalienable rights you would have to choose between jail and exile.

Events in Germany under Hitler are so fresh in our minds that it is easy to draw sharply the contrast between the suppression of the individual freedom of the Germans and the recognition here in our country of our freedom to write and say what we please about our Government and our institutions. Some Germans appear to like Hitler and his methods; but think of the misery of mind and soul suffered by those whose convictions against Hitler are suppressed and silenced under even the threat of death. Italy and Germany are capitalistic countries. Pass from them to the limitless reaches of Russia, where a group of strong men professed to have abolished capitalism for the common good of the common man; yet here more than in the capitalistic dictatorships individual liberty is imprisoned by governmental prohibitions of free speech, free press, private property, and free enterprise. Now and then we hear of a few professors and some students in our colleges—not, I am happy to say, in William and Mary—who have been captivated by the gilded stories of Russian communism. For the benefit of the few in America who feel like this, may I quote from an article by James Truslow Adams in the May Scribners:

"The standard of living of the higher-paid Russian was definitely below that of a man on the dole in England. One did not see many smiling faces among the workers."

The truth is that while democracy in the modern sense is less than 200 years old, the average man has profited more under it in political liberty and economic comfort than he has profited under any other system at any other time in the world's history. The countries with democratic institutions like England and America and France have survived the World War and its terrible aftermath better than the less democratic countries. England, where speech is so free that you may stand in Hyde Park and attack the monarchy under police protection, has balanced her budget and recaptured a considerable measure of her prosperity. And here at home we have stood the expenditures of unprecedented sums in war and the 20 years following and have been feeling recently the potential power for recovery stirring and throbbing in the veins of the Nation ready to burst into action once confidence is restored by the assurance of a balanced budget and an early return to normal governmental practices.

So much I have said, ladies and gentlemen of the graduating class, to emphasize to you the privilege of American citizenship. You are entering business and professional life at a time of difficulty and dissension and debate, but your liberty is safer and your chance of happiness is better because of the freedom with which these discordant voices may sound throughout the land.

There is no divinity that doth protect from free criticism and debate of our institutions. Political workmen may tap and test the parts of our Constitution to see if its strength or flexibility is failing, but we should be careful to test the new before we discard the old. It is one of the peculiar dangers of our time that we incline to be captivated by novel political suggestions merely because they are novel.

The growth of interstate business has influenced the most convinced believer in State rights to concede the necessity of the exercise of national power authorized by the Constitution, through national commissions, like the Interstate Commerce Commission, to protect the public interest. But this does not mean that we should be nationalized and federally socialized until the rights of the States have been obliterated and the individual loses much of his liberty of enterprise and the State becomes merely an administrative district of the Federal Government.

Years ago a man practiced law in this town. His name was Thomas Jefferson. He believed that the citizen should be permitted to use his own in his own way just so long and so far as such use did not interfere with the privilege of other citizens to do likewise. He was strong for the liberty of the individual and believed that the States must retain enough power to protect this liberty, for he knew that the citizen is safer under home rule than he is under rule from a distance. Our complicated industrial civilization of today demands more power in the Federal Government to control interstate activities than in Jefferson's day; but home rule is still a necessary protection to the rights of the individual and is the foundation of our Government of confederated States.

The Supreme Court of the United States has just rendered what many regard as very momentous decisions. The strange part of it is that anyone could have expected a different decision. With a unanimous voice the Supreme Court merely reaffirmed fundamental principles; principles upon which our Government was founded; and principles I may say to which the Democratic Party has pledged enthusiastic allegiance since the days of Jefferson. These decisions have transferred the emphasis of public discussion from economic to political problems. The debate rages as we assemble in this place of scholarly dignity and quiet reflection. Old battle cries sound anew and the shadows of Jefferson and Hamilton move amid the modern debators as they have so often done before in periods of stress and strain. Men and women of today are talking about the principles that interested the people of Jefferson's day as they walked this very campus.

This is true because fundamental principles like local self government and nationalism are long lived as such principles directly control our liberties and happiness.

It does not take a prophet to predict that in one form or another the issue will be presented to the people of America. I do not regard the Constitution of the United States as a sacred document to be considered as immune to change or criticism; perhaps certain changes should be made, but I say that while the Constitution itself is not sacred, the principles of representative democracy embodied in the Constitution are sacred to those who believe in this form of government. Our Constitution is 146 years old and therefore outgrown, the critics say, yet principles of freedom and of justice are immortal. You may make some change in the framework, but to alter or amend the foundation stone will destroy the structure. The issue may come by reversing the tenth amendment, which says that "Powers not delegated to the United States by the Constitution nor prohibited to it by the States, are reserved to the States respectively or to the people." It may come in the proposal now being made by a member of the Cabinet who desires a constitution subject to amendments by a popular majority of the Nation as a whole without regard to the sovereignty of the States and that such amendments be submitted by a nonelective board appointed by the President. This would destroy one of the most important of the checks and balances devised by the wisdom of the founders. Others of influence desire that the Supreme Court be denied the power to declare unconstitutional an act of Congress, a power conceded to the Court since the days of Chief Justice Marshall.

The wise men who framed the Constitution were concerned to protect the individual against unrestrained Federal power; but distinguished gentlemen today feel that the people's welfare can be promoted only by the grant to the Federal Government of supreme power to do anything a temporary legislative majority may authorize to be done anywhere in the United States.

Americans have confidence in America because the Constitution stands a bulwark against confiscation of the property or liberty of the individual by temporary majorities and because an impartial court, withdrawn from the atmosphere of partisan politics and enjoying tenure in judicial office for life, could speak the last considered and deliberate word on the validity of congressional enactments. Similar power exists in the State courts, and this check on unconstitutional legislation has frequently protected us from an excited and temporary majority in the Congress or State legislatures. It is the peculiar province of the Constitution to protect the rights of the minority, rights that no temporary majority should have the power to destroy. It is another of the checks and balances of our democracy.

The proposal to strike out or amend the commerce clause to give the Federal Government control of all activities solely within a State in its practical application destroys the most important

of State rights and makes the States merely districts to the central Government. When the issue comes there can be no compromise, because fundamental principles admit of no division; either you are for them or against them. We of this generation can no more compromise with such issues than Gen. Robert E. Lee when he made his heroic fight to preserve home rule; to maintain what he called "sacred principles."

I have no quarrel with those who desire to change the Constitution by the orderly methods prescribed. In this free country that is their privilege, just as it is the duty of those of us opposed to the destruction of the very foundation stones upon which our great representative democracy has been builded to fight to the last ditch to preserve those things our forefathers gave their lives for us to enjoy. As a Democrat who yields to no man in my belief in and support of Democratic principles, I say that if the Democratic Party becomes the instrument to attempt to destroy the rights of the States by constitutional change, then our historic party has betrayed every tradition of its past and violated the first principles of its existence. I do not and cannot believe that such will occur; neither do I believe any formidable leader of the Democratic Party will promote such a plan, yet the debate that is now going forward in frankness compels public men who feel strongly as I do, to without equivocation state our opposition regardless of political consequences. And in the shadow of these walls where democracy was cradled and nurtured by the great men of Virginia's past, I want to take my stand for the preservation of the fundamental principles of our Government; against the destruction of the rights of the States and to preserve home rule; in opposition to any movement to abridge the present power of the Supreme Court of the United States, and to save the checks and balances the founders so wisely adopted as a protection against mob rule.

In conclusion let me say that it is because the inalienable rights of the individual have never yet been sacrificed or lost and that our liberties are protected by constitutional law that I am able to assure you that you are entering upon your life's work in that country where you will have the best chance of success and happiness.

Out of this institution have gone successive generations of students trained to participate wisely in the decision of public questions. The questions confronting us demand for their solution enlightened and temperate deliberation. Such deliberation you are now trained to exercise the better because of your studies here. I repeat, never lose faith in America, but never hesitate to condemn those things that tend to lessen your faith in America.

To every one of you Godspeed and best wishes.

THIRD PARTY PLAN IMPRACTICAL—ARTICLE BY WALTER E. EDGE

Mr. BARBOUR. Mr. President, I ask unanimous consent to have printed in the RECORD an article by Walter E. Edge, former United States Senator from New Jersey and former Ambassador to France, which appeared in the New York Herald Tribune of June 9.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THIRD PARTY PLAN "IMPRACTICAL", EDGE BELIEVES—TIME TOO SHORT TO ORGANIZE ANEW, SAYS FORMER AMBASSADOR TO FRANCE

By Walter E. Edge, former American Ambassador to France

The Supreme Court's body blow which completely wrecked Mr. Roosevelt's program to nationalize American industry and regiment its citizens has inspired renewed discussion of practical political realinements aimed to terminate the extreme socialistic plans of the badly crippled new deal.

For months it has been plainly apparent that a large and influential section of the Democratic Party was completely out of step with the President's program of planned economy and centralized control. This development has found expression in various forms and particularly as to the position to be taken by the political parties in the next Presidential campaign.

There have been emphatic demands for a coalition of Republicans and Democrats who disagree with the policy of the administration's determination to administer as well as regulate the business of the country.

The present intransigent attitude of Mr. Roosevelt should aid and encourage such a combination greatly. Without attempting to prophesy the President's final position, which in the light of his conflicting public statements is impossible, the demand for a uniting of opposing forces is imperative. Reviewing the President's attitude in the two outstanding crises since his election, one is justified in the conclusion that he prefers temporary confusion to broad cooperation.

The history of his refusal to join with President Hoover in endeavoring to avert the bank crisis just prior to his inauguration is being told publicly for the first time. And now that the Supreme Court unanimously has blocked his ambitious program of centralized control, he again seems to invite uncertainty rather than readjustment. This indicates to many that his indecision is more political than constructive and still further justifies a combination of those forces, irrespective of party, who are in disagreement with his most recently expressed policies.

Some advocates of such a coalition have suggested frankly the formation of a new party, presumably with a new party name. Personally I believe this would be a mistake. Such an arrangement necessarily would force the new party into the position of being a third party, which would make its status most difficult. Political history has certainly emphasized that fact. The Palmer-Buckner split in 1896, while no doubt assisting President McKinley's election, polled fewer than 200,000 votes of more than 13,000,000.

From the practical standpoint, I am sure, it would be just as impossible to have the Republican Party give up its charter as it would be to have the Democratic Party cease to function. No doubt a section of the Republican Party, either from the right or left wing, may affiliate with other groups with similar opinions and convictions, but no individual or collection of individuals has the power or authority to sweep the party from existence.

Therefore, inasmuch as the Democratic Party, of course, will continue to function with President Roosevelt as its leader and nominee, and apparently maintain views not in harmony with the convictions of many of its members, the latter should affiliate with the Republican Party under a coordinated program which undoubtedly could be agreed upon. Again from the practical standpoint, the Republican Party is the only existing political organization on which to build, assuming the objective is to encourage permanent recovery through the defeat of Mr. Roosevelt's policies.

The Republican Party has existing National, State, district, and county set-ups, and it would be impossible to build a new organization of this character in a few weeks under another name. This is not a question of stubborn party selfishness. It is a matter of just plain ordinary common sense if real results are to be obtained.

If citizens who have affiliated heretofore with the Democratic Party and a large section of the Republican Party could agree on a declaration of principles along the lines of the 1932 Democratic platform, which should not be difficult, there would be no reason why there would not be honor and credit enough to go around. Of course, we all realize that a combination of this character will lose a certain element of voters who have at times affiliated with the Republican Party. In fact, as everyone knows, there has been a section of the Republican Party that has and perhaps will continue to support a large portion of Mr. Roosevelt's program.

It must not be forgotten that at the last election, when the Republicans faced every disadvantage because of tremendous relief distributions, and so forth, and had no noticeable split in the Democratic Party to aid them, the Republican Congressional candidates pooled more than 13,000,000 votes, as compared to the Democrats' 16,500,000—not a large difference to overcome under existing conditions and circumstances.

PREVENTION AND PUNISHMENT OF CRIME—ADDRESS BY ATTORNEY GENERAL CUMMINGS

Mr. ASHURST. Mr. President, I ask unanimous consent to have printed in the RECORD an address delivered by Hon. Homer Cummings, Attorney General of the United States, at Stamford, Conn., Friday, June 7, 1935, at the celebration of the founding of the First Congregational Church in 1635.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

Ladies and gentlemen, after the stirring challenges and compulsions of events at the national seat of Government it is a stimulating experience to return, even for a few hours, to the intimate associations of one's home State and there amidst neighbors and friends, gain the advantage of a fresh perspective of some of the problems that beset us. While I was not born in Connecticut, I came here to college and to law school, and here I have remained ever since. If I have been complimented in the occasional assertion that I have certain Yankee characteristics, it is because I have never sought to resist the influences that this fringe of New England has to offer. Therefore, I return tonight with a deep gratitude to this State in which I have lived and worked and upon which I long ago came to depend as a never-failing source of strength.

We are met to celebrate the founding of the First Congregational Church of Stamford in 1635. Three centuries is, indeed, a tremendous span of time. When this church was established the first Romanoff had just mounted the throne of Russia. Charles I was King of England. The crown of France had still to be placed upon the brow of Louis XIV. During this historic sweep of time great empires have arisen and fallen; great figures have crossed the stage of life; flaming ideas and vast ambitions have swept the world and, their impetus being exhausted, have become forgotten things. Yet this church still stands and fulfills its ministering function as it has for generations. From New England, New York, Virginia, and other portions of our eastern seaboard came the initiative, the intelligence, and the courage that resulted in the independence of our country. In the midst of the altering aspects of modern life, those who grow fearful or discouraged might well consider the significant transformations that have occurred on this continent since 1635, and quiet themselves with the calm reflection that change has meant progress; and that our institutions, developed through three centuries of trial and error and exposed to all manner of strains, still endure and are as firm tonight as ever.

I need not remind this audience that the Department of Justice has had intimate experience with many of the difficult questions that have arisen as a consequence of new social and economic conditions. One of the most pressing problems with which the Department has had to deal has been the growth of organized crime in its interstate aspects. Armed bands of men in possession

of lethal weapons of offense have availed themselves of all the resources of modern communication and transportation to commit offenses of the most hideous character. Kidnapers and extortionists have invaded our homes and imperiled our families and our children. Unfortunately, there existed an unmistakable gap between State and Federal jurisdiction. In this twilight zone of relative safety crime grew and flourished.

It was not a desire to usurp the functions of State and local authorities that brought the Federal Government upon the scene. Imperative circumstances required it and led to the introduction in the Seventy-third Congress of what has been termed the "12-point program" of the Department of Justice, which resulted in the passage of 17 important enactments. These acts, in general, dealt with the menace of an armed underworld crossing and recrossing State lines in open defiance of the law-enforcement authorities. These laws have greatly strengthened the arm of the Government and have led to distinctly beneficial results.

It is obvious, however, that the problem of crime is not limited to detection, arrest, and punishment. It is a social question with manifold ramifications touching almost all the activities and conditions of life. It was chiefly for this reason that I summoned last winter to meet in Washington a conference on crime. In all, there were about 600 delegates in attendance from all parts of the United States, who heard from the lips of practical experts a discussion of crime in all of its various aspects.

The practical recommendations of the conference elicited widespread public interest and approval.

One of the most important actions taken was that approving of the establishment at Washington, D. C., of a scientific and educational center, permanent in form and structure, to provide national leadership in the broad field of criminal-law administration and the treatment of crime and criminals.

Several months ago I appointed an advisory committee to aid me in the consideration of this difficult matter. This committee has labored well, and I am deeply grateful for the cooperation thus afforded. The committee has presented to me from time to time various suggestions of great value. Among other things the committee has approved of the creation of the proposed scientific and educational center within the structure of the Department of Justice. The validity of this recommendation seems obvious.

As a part of this project I have decided to submit to the Congress a request for authority to create in the Department of Justice a bureau to be known as the "Federal Bureau of Crime Prevention." In this new bureau, it is proposed to concentrate all of the functions connected with the proposed scientific and educational center not heretofore allocated or hereafter to be allocated to the other two Bureaus of the Department which already exist, to wit, the Federal Bureau of Investigation and the Federal Bureau of Prisons. These three Bureaus, working in harmonious cooperation and under the direct supervision of the Attorney General, are, I believe, best adapted for the working out of the desired objectives, without interrupting or interfering with present activities.

Under the new bureau will be placed matters which have to do with the cause and prevention of crime. It will conduct research of the most practical character in pertinent fields of criminological activity.

It will offer a means for maintaining the closest possible contact with organizations interested in law enforcement, and with groups of citizens in the various States who need assistance and encouragement in reorganizing and improving law enforcement agencies in their own jurisdictions.

It will provide collaboration with schools, colleges, and universities engaged in educational work in this field. At the present time, educational work, both for the training of personnel and for the information of the people generally, is scattered and unsatisfactory. There is no educational institution, at the present time, in the whole United States offering an adequate course in which an intelligent citizen desiring to prepare himself for community or State leadership in connection with this problem could do so. As time goes on, it is hoped that we may be able to establish such collaboration between the Department of Justice and schools, colleges, and universities throughout the country, as will make possible the acquiring of such an education.

Moreover, there will be provided a clearing house for information concerning improved methods in use in the various States, as well as concerning the work of national organizations and private agencies in this field. It will collaborate in State and local crime conferences, and other crime-prevention and law-enforcement meetings in which Federal participation is requested. It will attempt to develop and sustain public interest in revising law-enforcement methods and procedure.

One of the most important services that this Bureau can render I have left to the last. I have decided that this Bureau, working in collaboration with the Criminal Division of the Department, shall offer means for the instruction and training of United States attorneys, United States marshals, and United States commissioners. The importance of such training cannot be overestimated. Such officials, scores of whom enter upon public office for the first time, will be afforded a wider background of knowledge and a clearer perspective, not alone with respect to their immediate duties, but in the whole field of crime prevention, detection, and apprehension, and penal treatment.

In general, the first unit in our structure will concern itself primarily with conditions that precede the perpetration of a crime. The second unit, the Federal Bureau of Investigation, and the third unit, the Federal Bureau of Prisons, will concern themselves with conditions which exist subsequent to the perpetration of a crime, the former with detection and apprehension of the criminal, the latter with punishment and rehabilitation after conviction.

With respect to the functions and activities of the Federal Bureau of Investigation, I do not believe that discussion is needed from me tonight. Its recent achievements are too well known to require elaboration. Under the able guidance of its director, Mr. John Edgar Hoover, there has been in successful operation in the Department an excellent training school for the instruction of special agents of the Bureau of Investigation. During the past several months scores of requests have come to us from police officers, from interested citizens, and from the International Association of Chiefs of Police that the training facilities of the Federal Bureau of Investigation should be made available to outstanding law-enforcement officials throughout the United States. This is a service that I have long felt the Department of Justice should offer to the American people.

It is a source of deep satisfaction to me to state tonight that we are now prepared to open the doors of the Federal Bureau of Investigation to representative police officers who may desire to take the same course of training that is now given to special agents of that Bureau. Plant, technical equipment, scientific facilities, lecturers, and instructors will be available for this important work. The sole expense to those who take these courses will be the cost of transportation to and from Washington, and of personal maintenance during the period of instruction. The Department cannot, of course, offer these advantages indiscriminately, but it can and will undertake to supply to experienced police officials instruction in all of the manifold scientific and technical subjects in which special agents of the Federal Bureau of Investigation are now trained. In this way we shall both learn and teach. A formal announcement of our detailed plans will be made in the immediate future, and it should be possible to initiate these courses during the coming summer.

The continued and intensive research of the Federal Bureau of Investigation in all fields of criminological activities relating to detection and apprehension will be placed, in ever-increasing measure, at the disposition of cooperating agencies.

The third unit in our project is the Federal Bureau of Prisons. Under this Bureau is now placed those activities which deal with problems pertaining to the development of advanced methods in the punishment, treatment, and rehabilitation of criminals. Under the experienced direction of Mr. Sanford Bates this Bureau now maintains a training course for Federal prison officials, the facilities of which will be made available under proper conditions to selected State and other officers in this field. Here will be studied the development of scientific information on which to base comprehensive modern methods of parole, probation, and pardon; modern methods of jail and prison construction; modern methods for the classification, segregation, and treatment of criminals; the effects of various forms of punishment, advanced penological technique in prisons, jails, and work camps, and a host of similar matters.

There are numerous varieties of places of detention under the jurisdiction of the Federal Bureau of Prisons, from camps, reformatories such as Chillicothe and Alderson, and what are known as "semisecure institutions" to such a place as Alcatraz. It is our earnest desire to maintain a constantly improving prison system which will not alone serve our own needs and meet our own purposes, but which will also indicate to those in other jurisdictions what can be accomplished in this field. Our prisoners range from the most tractable individuals who give real promise of rehabilitation to the most difficult and almost hopeless recidivists. In their classification, treatment, and segregation, under the careful direction of the Federal Bureau of Prisons, I believe valuable lessons have been learned which should be offered to penological experts in charge of non-Federal institutions according to some permanent arrangement that will also be of service to us in the discussion of our mutual problems.

While each of these three Bureaus will have its own well-defined function, it is not our intention that they should operate in water-tight compartments. Each should be informed as to the problems, the difficulties, and the objectives of the other two. Indeed, no permanent progress can be made in the improvement of criminal law administration in general unless all of those engaged in this work conceive of themselves and their duties as part of a great social enterprise. The more that the prosecutor knows about prevention, detection, and penal treatment, the better prosecutor he will be. The apprehending officers should see themselves as part of a great process that has for its end the protection of society. Prison officials should understand the difficulties that have been surmounted before the convicted criminal is delivered into their charge. Through the growth and exchange of such information, law enforcement can be integrated as it has never been in the past.

When this structure is completed, it will be apparent that the Department of Justice has a well-rounded program, as well as balanced facilities, to deal with all aspects of the crime problem. It would require no particular inventiveness to erect some great, imposing, and expensive façade of new functions to deal with these perplexing problems, but I prefer to initiate the work on the basis of our previous experience, to permit it to develop as need arises and as there is assurance that we are proceeding in the right direction.

Of course, I have no thought that in the Department of Justice alone resides the wisdom and experience to deal with the problem of crime. Thousands of police officers, of prison, parole, and probation officials and of public-spirited citizens engaged in sociological activities are making invaluable contributions to the com-

mon objective. One of the major factors in such recent success as has been achieved has been the increasing cooperation among Federal, State, and local agencies. The future requires even closer coordination and even more complete give and take in all of our activities. For this reason I shall not rest content with the training and educational facilities that the new structure itself can provide. I shall not hesitate to go outside and invite the help of experts in different fields and from different jurisdictions to advise with us and to assist in our work.

What is needed now, as recent experience has shown us, is some central organization to give leadership, coherence, training, and practical aid in crime prevention and in the improvement of criminal law administration. In the threefold organization which I have described I hope to find the agencies through which to reach the desired ends. It is a difficult undertaking. We must be under no illusions as to the nature and seriousness of our problem. Crime is not a passing phase. It spreads and grows as the complications of a complex civilization multiply about us. It is a challenge to our intelligence, to our capacity for self-discipline, and to our social control. During the decades past we have made substantial progress despite tremendous obstacles. Now, as the problem becomes clearer, we are beginning to realize its implications. The genius of our people has never failed to provide effective methods as new and more harassing difficulties have confronted us. In behalf of this great cause I solicit your interest, and I trust that it will commend itself to your active support.

HOUSE BILLS REFERRED

The following bills were each read twice by their titles and referred to the Committee on the District of Columbia:

H. R. 5809. An act to amend an act entitled "An act to control the manufacture, transportation, possession, and sale of alcoholic beverages in the District of Columbia; and

H. R. 7526. An act to amend the act approved February 20, 1931 (Public, No. 703, 71st Cong.), entitled "An act to provide for special assessments for the paving of roadways and the laying of curbs and gutters."

EXTENSION OF NATIONAL INDUSTRIAL RECOVERY ACT

The PRESIDENT pro tempore laid before the Senate the amendments of the House of Representatives to the joint resolution (S. J. Res. 113) to extend until April 1, 1936, the provisions of title I of the National Industrial Recovery Act, and for other purposes, which were, on page 1, beginning with line 7, to strike out all of sections 2 and 3 and insert:

SEC. 2. All the provisions of title I of such act delegating power to the President to approve or prescribe codes of fair competition and providing for the enforcement of such codes are hereby repealed.

And to amend the title so as to read: "Joint resolution to extend until April 1, 1936, certain provisions of title I of the National Industrial Recovery Act, and for other purposes."

Mr. HARRISON obtained the floor.

Mr. McNARY. Mr. President, is it the expectation of the Senator from Mississippi to suggest the absence of a quorum before he makes his statement? If not, I shall do so.

Mr. HARRISON. Very well, if it is the desire to have a quorum.

Mr. McNARY. We must have a quorum, of course. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Adams	Coolidge	Keyes	Pope
Ashurst	Copeland	King	Radcliffe
Austin	Costigan	La Follette	Reynolds
Bachman	Couzens	Lonergan	Russell
Bailey	Davis	Long	Schall
Bankhead	Dickinson	McAdoo	Schwellenbach
Barbour	Dieterich	McCarran	Sheppard
Barkley	Donahey	McGill	Shipstead
Black	Duffy	McKellar	Smith
Bone	Fletcher	McNary	Steiwer
Borah	Frazier	Maloney	Thomas, Okla.
Brown	George	Metcalf	Thomas, Utah
Bulkley	Gerry	Minton	Townsend
Bulow	Gibson	Moore	Trammell
Burke	Glass	Murphy	Tydings
Byrd	Gore	Murray	Vandenberg
Byrnes	Guffey	Neely	Van Nuys
Capper	Hale	Norbeck	Wagner
Caraway	Harrison	Norris	Walsh
Carey	Hastings	Nye	Wheeler
Chavez	Hatch	O'Mahoney	White
Clark	Hayden	Overton	
Connally	Johnson	Pittman	

Mr. BARKLEY. I desire to announce that the Senator from Mississippi [Mr. BILBO], the Senator from Kentucky [Mr. LOGAN], the Senator from Arkansas [Mr. ROBINSON], the Senator from Missouri [Mr. TRUMAN], and the Senator from Illinois [Mr. LEWIS] are unavoidably detained from the Senate.

The PRESIDENT pro tempore. Ninety Senators having answered to their names, a quorum is present.

Mr. HARRISON. Mr. President, I move that the Senate concur in the amendment of the House to the text of Senate Joint Resolution 113, with the amendment which I send to the desk.

The PRESIDENT pro tempore. The clerk will state the amendment.

The CHIEF CLERK. It is proposed to strike out the period at the end of the matter proposed to be inserted by the amendment and to insert in lieu thereof a colon and the following:

Provided, That the exemption provided in section 5 of such title shall extend only to agreements and action thereunder (1) putting into effect the requirements of section 7 (a), including minimum wages, maximum hours, and prohibition of child labor; and (2) prohibiting unfair competitive practices which offend against existing law or which constitute unfair methods of competition under the Federal Trade Commission Act, as amended.

Mr. LONG obtained the floor.

Mr. McNARY. Mr. President, I had hoped, inasmuch as we are proceeding under a limitation of time, that the Senator from Mississippi, having charge of the joint resolution, would make some statement in regard to it.

Mr. HARRISON. I shall be glad to make a statement.

Mr. McNARY. I think that is the proper course to pursue.

Mr. HARRISON. I made a statement on yesterday, but there was not a full attendance of the Senate.

Mr. LONG. Mr. President, with the understanding that I do not lose my right to the floor, I shall be glad to yield to the Senator from Mississippi to make the statement.

The PRESIDENT pro tempore. The Chair will recognize the Senator from Louisiana if he shall address the Chair.

Mr. HARRISON. Mr. President, the Senate is familiar with the Senate joint resolution we passed, which was applicable to codes. Under the National Industrial Recovery Act the President was authorized to deal with this question in three ways. One method was through licenses, which would operate for 12 months, and that provision has expired by limitation of law. The second way was by code arrangements, under which a code might be imposed upon an industry after a majority of the industry had submitted a code and it had been approved by the N. R. A. authorities and the President. The only remaining method under the law was through voluntary agreements which might be entered into, which would create a contractual relationship between the parties to the agreements.

The joint resolution deals only with section 4 of the present law; and I should like to have Senators who are interested in this subject and who expect to discuss it listen to the particular explanation I am about to make, because it might expedite the consideration of the measure.

The joint resolution we passed, in addition to the fact that under it the N. R. A. is to be continued until April 1 of next year, authorizes the President to collect data and to follow through in ascertaining what recession there has been in the matter of wages, hours of labor, and other practices.

Section 4 of the original law is the one applicable to the legislation now under consideration. It reads:

The President is authorized to enter into agreements with, and to approve voluntary agreements between and among, persons engaged in a trade or industry, labor organizations, and trade or industrial organizations, associations, or groups, relating to any trade or industry, if in his judgment such agreements will aid in effectuating the policy of this title with respect to transactions in or affecting interstate or foreign commerce.

It will be noted that this is confined to interstate or foreign commerce and is consistent with the requirements of clause (2) of subsection (a) of section 3 for a code of fair competition.

Clause (2) of subsection (a) of section 3 providing requirements for a code of fair competition, which must be in every voluntary agreement, reads:

That such code or codes are not designed to promote—

I will substitute the word "agreement", so that it will read:

That such agreement or agreements are not designed to promote monopolies or to eliminate or oppress small enterprises and will not operate to discriminate against them, and will tend to effectuate the policy of this title: *Provided*, That such agreement or agreements shall not permit monopolies or monopolistic practices.

To my mind, and to the minds of a great majority of the committee, with that prohibition and that condition the joint resolution as adopted by the House would have been quite sufficient; but some thought that the measure as passed by the House would suspend the antitrust laws, and there was a feeling that they should not be suspended.

In my opinion, it would not have suspended the antitrust laws at all, because when gentlemen get together and make an arrangement with reference to collective bargaining or with reference to minimum wages or with reference to maximum hours of labor, it is inconceivable to me how any lawyer should say that such action would be in violation of the Sherman antitrust law. But the captains of industry, or at least some of them think otherwise, and are afraid to get together for almost any purpose. So the gentlemen who have opposed the N. R. A. legislation on account of the suspension of the antitrust law suggested an amendment, and we have proposed that amendment to the House amendment, to the effect that until April 1 of next year in the making of these voluntary agreements, affecting only interstate commerce, the exemption shall apply only in the respects I have indicated, which would, in my opinion, absolutely safeguard against any of those contingencies which have arisen in the minds of some and which might influence them to oppose the legislation.

Mr. COPELAND. Mr. President, may I ask the Senator a question?

Mr. HARRISON. Certainly.

Mr. COPELAND. The amendment includes this language:

Including minimum wages, maximum hours, and prohibition of child labor.

Is that intended to mean putting into effect the requirements of section 7 (a) as that section relates to minimum wages, maximum hours, and so forth?

Mr. HARRISON. Section 7 (a) is the collective-bargaining provision, which assures labor the right to bargain collectively. If the Senator will read the present N. R. A. law, which is to be extended, he will find that those who make the agreements contemplated must incorporate in the agreements the collective-bargaining feature which is provided in section 7 (a).

Mr. COPELAND. That is to say, then, this continues the features of section 7 (a)?

Mr. HARRISON. This continues them.

Mr. COPELAND. Including the provision as to minimum wages, and so forth?

Mr. HARRISON. Yes. The amendment provides that in every voluntary agreement respecting interstate commerce, if such agreement shall be entered into, there shall be included a provision putting into effect the requirements of section 7 (a) which deal with collective bargaining, including minimum wages, maximum hours, and prohibition of child labor; and, second, there shall be included also a provision—

Prohibiting unfair competitive practices which offend against existing law or which constitute unfair methods of competition under the Federal Trade Commission Act, as amended.

The language was written in this way because it follows the language of the decision of the Supreme Court in the recent N. R. A. case, so there could be no fault to find with it. In other words, we do not set forth what shall be fair practices and fair competition, but we aim—

To prohibit unfair competitive practices which offend against existing law or which constitute unfair methods of competition under the Federal Trade Commission Act, as amended.

While, in my opinion, this could be done anyway, and the antitrust laws would not be suspended, as the antitrust laws are now in full force and effect, this will offer encouragement to those who desire to enter into these voluntary arrangements and enable them to feel satisfied that when they meet for these particular purposes they will not be acting in violation of the law.

Mr. DICKINSON. Mr. President, will the Senator yield?

Mr. HARRISON. I yield.

Mr. DICKINSON. If this extension shall be granted in accordance with the terms of the joint resolution, where will the money come from to pay the salaries of the personnel employed?

Mr. HARRISON. I do not know. If the Congress did not appropriate directly it would come out of some fund they think they have.

Mr. DICKINSON. As a matter of fact, it comes out of title II, which provides the Public Works fund, as I understand.

Mr. HARRISON. That may be. I may say that on yesterday we had Mr. Richberg before us, and he said they had already made a survey, and the President had insisted that the personnel be cut to the bone in order to carry out certain purposes he had in mind; that while there were some 5,400 now in the personnel of the N. R. A., in their first estimate and survey they had agreed already to cut it down, I think, to 1,500; in other words, lopping off in the neighborhood of 4,000.

Mr. DICKINSON. Just one further question. Are those who are to be retained experts or what one might call the scientific research personnel?

Mr. HARRISON. I may say to the Senator that I doubt whether many of these voluntary agreements can be entered into. However, those highest in authority have expressed a strong desire that the N. R. A. be continued, in order that they might retain a personnel which would keep check on those industries which have come into the code arrangements, under which employers are now paying fair wages and maintaining certain hours of labor, in order to ascertain whether those standards may be maintained or whether the employers are going to increase the number of hours of labor and decrease wages. At the same time, as has been expressed in the public press, the President is very desirous of trying to preserve the present labor provisions with reference to hours and wages, so that in entering into contractual relationships in connection with the expenditure of Government moneys in building and other projects he may be permitted to write into the contracts that such standards for hours and wages shall be maintained. So the President expects to use the N. R. A. agency and its personnel to handle that situation.

Mr. DICKINSON. One further question. If the delegation of authority to the President under the code section of the law was unconstitutional, I am wondering whether or not the same objection as to the delegation of power by the legislative branch to the Executive in the matter of agreements will not invalidate this section of the joint resolution in a similar way.

Mr. HARRISON. On the contrary, the Supreme Court decision expressly stated that if the agreements were voluntary, the situation would be different; and the agreements contemplated are voluntary. In the matter of codes, we were imposing codes upon people; we gave to the President the power to impose codes. The pending motion provides for voluntary agreements, creating a contractual relationship. The President will have no authority to impose agreements upon anybody.

Mr. DICKINSON. In other words, it is not the Senator's contention that under the proposal now presented, extending the N. R. A., there would be any authority whereby an agreement which was entered into could be forced upon a minority which did not want to sign the agreement?

Mr. HARRISON. Absolutely not.

Mr. LONG. Mr. President, I understood that the junior Senator from Oklahoma [Mr. GORE] had an amendment which he wished to offer to this resolution.

Mr. GORE. Mr. President, I did wish at the proper time to offer an amendment. Has the Senator from Mississippi concluded his remarks?

Mr. HARRISON. Yes; I have concluded.

Mr. LONG. I have the floor, but I should be glad to yield to the Senator from Oklahoma if he wishes to offer his amendment.

Mr. GORE. In fact, I intended to confer with the Senator from Mississippi in regard to this amendment, but when I came into the Chamber he was speaking, and I have not had a chance to confer with him since. I will send the amendment to the desk and ask to have it read. I hope the Senate will consent to it, because it embodies the will of the Senate as heretofore expressed in a former vote in connection with the passage of the $4,800,000,000 relief joint resolution.

The PRESIDENT pro tempore. The amendment of the Senator from Oklahoma will be stated.

The CHIEF CLERK. At the end of the joint resolution it is proposed to insert the following:

SEC. —. (A) Hereafter any person who shall receive under this or any other act of Congress a salary or other compensation at the rate of $4,000 or more per annum shall be appointed by the President by and with the advice and consent of the Senate.

(B) No such person appointed during the recess of Congress shall serve or be paid for a longer period than 60 days after the convening of the next succeeding session of Congress unless appointed and confirmed as provided above, and no such person appointed while Congress is in session shall serve or be paid for a period of more than 60 days nor beyond the adjournment of Congress unless so appointed and confirmed.

(C) No such person appointed under the provisions of this act or the provisions of Public, No. 10, Seventy-third Congress, as amended (Agricultural Adjustment Act), and under the provisions of Public No. 67, as amended, of the Seventy-third Congress (National Industrial Recovery Act) or paid out of any appropriation made in pursuance of this or any such act or acts shall serve for a period of more than 1 year from the date of his confirmation by the Senate unless reappointed and confirmed as herein provided; and any such person appointed and confirmed hereunder who shall serve or be paid under the provisions of any other act or acts not herein specified shall serve until the end of the administration of the President by whom such person was appointed.

(D) The President shall by Executive order fix the rate of compensation which any such person so appointed and confirmed shall receive and be paid and shall prescribe the official title or designation by which such person shall be known.

(E) Section 1761, Revised Statutes, is hereby reenacted insofar as consistent with the provisions of this section.

Mr. GORE. Mr. President, at this time I do not intend to detain the Senate. The purpose of this amendment is self-evident. It was prepared in collaboration with the official draftsmen of the Senate. The purpose and object is to require the confirmation of officials or employees receiving more than $4,000 per annum. The Senate has pronounced its judgment upon that point in connection with its action on the $4,800,000,000 relief joint resolution. I believe the amendment in connection with that measure, however, provided for cases where persons received salaries of more than $5,000 per annum instead of $4,000. Unless some other Senator wishes to discuss the amendment I do not care to do so at this time.

Mr. HARRISON. Mr. President, I hope very much that the Senator from Oklahoma will not insist on his amendment. Of course, the ordinary procedure would have been for the joint resolution to have gone to conference, but when it was originally before the Senate I stated that, so far as I was concerned, the Senate could pass upon whatever amendments might be made in the House. The House adopted a very simple amendment. In order that the measure may not become badly involved, with the 16th of this month as the limitation upon the life of the organization, I hope very much that the Senate will not take the action proposed by the Senator from Oklahoma. His amendment might be very important if the N. R. A. were going to be extended for 2 years and if it were going to retain the same force it now has.

As was revealed by the investigation of the Finance Committee, a good many persons in the code authorities were drawing very high salaries, being paid by the industries themselves, but since the codes have been wiped out, of course, the code authorities also have been wiped out.

Since the force is going to be reduced tremendously the importance of this question is not as great as it was. In order that the House and the Senate may get together on this measure and send it on its way to the President before the time runs out, I hope the Senator will not insist upon his amendment.

Mr. GORE. Mr. President, it seems to me the House ought not to object to concurring in this amendment. I would not have offered it at this time but for the circumstance that the Senate, acting deliberately, attached an amendment to the $4,800,000,000 relief joint resolution requiring officers and administrators appointed in pursuance of that act to be confirmed by the Senate. The conference committee once agreed to that amendment in fairly reasonable form, but when the second conference report came in—and I doubt if six Senators on the floor of the Senate know this to be the fact—instead of affording an additional safeguard and guaranty in connection with these appointments it actually suspended section 1761 of the Revised Statutes, which provided that these officers could not be paid until they had been confirmed. That safeguard was suspended. I did not know it myself for some time after the measure had been enacted.

Mr. BARKLEY. Mr. President, will the Senator yield?

Mr. GORE. I yield.

Mr. BARKLEY. Does the Senator's amendment only apply to employees under the N. R. A.?

Mr. GORE. No, Mr. President; it applies to everybody.

Mr. BARKLEY. The Senator's amendment applies to everybody, including the officers, with reference to whom, in the consideration of the $4,800,000,000 joint resolution, we fixed the $5,000 limitation?

Mr. GORE. Yes; it would change it to that extent.

Mr. BARKLEY. It would change that act and all other acts?

Mr. GORE. Yes; but, Mr. President, I inquire if anyone has been nominated in pursuance of that act?

Mr. BARKLEY. It changes in the same aspect the Agricultural Adjustment Act and all other acts now in force?

Mr. GORE. Yes. It certainly does. It does not omit anyone. If anyone is omitted, it is an inadvertence on my part.

Mr. LONG. Mr. President, will the Senator yield for a moment?

Mr. GORE. I yield.

Mr. LONG. As a matter of fact the Senate adopted this amendment to the $5,000,000,000 joint resolution, and the first conference approved it, as I understand.

Mr. GORE. Yes; substantially.

Mr. LONG. And the next thing we knew they not only had stricken out our amendment providing that employees receiving more than $5,000 should be confirmed by the Senate, but they went a little further and suspended a law which our amendment did not even affect—that is, they suspended section 1761.

Mr. GORE. They did; yes.

Mr. LONG. In other words, they struck out the amendment which had been adopted to the $5,000,000,000 joint resolution, providing that employees receiving more than $5,000 per annum should be confirmed by the Senate, and they not only did that, but they put another section in providing that it was not necessary to have any confirmation by the Senate, not only in connection with the employees or appointments concerning which confirmation had been provided by the Senate, but also concerning appointments which we did not mention in our amendment. In other words, they took the angel and made it a witch, and no one knew what had gone on when the measure came back to the Senate.

Mr. GORE. I think for all practical purposes the Senator from Louisiana is correct in his statement; and if anyone has been nominated under the provisions of the $4,800,000,000 joint resolution I am ignorant enough not to know it. Not only that, but the conference report, as adopted, repealed section 1761, which I desire to have read at this time. I doubt if any Member of the Senate who was not on the conference committee knew that this section of the law had been repealed.

Mr. TYDINGS. Mr. President, will the Senator yield?

Mr. GORE. I yield.

Mr. TYDINGS. I should like to ask the Senator from Oklahoma what justification there can be, when the Senate has to confirm the appointment of every postmaster who receives two or three thousand dollars a year, and who works under very strict regulations, for the Senate not confirming employees who are paid more than $4,000 a year, who are expending $4,800,000,000 and are entering into all sorts of activities under rules and regulations other than by law. For my part, I do not believe it will delay the resolution a particle to adopt the amendment offered by the Senator from Oklahoma, and I hope the amendment will be adopted.

Mr. McNARY. Mr. President, I rise to a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator will state it.

Mr. McNARY. We have reached the hour of 12 o'clock, when, under the unanimous-consent agreement, the Senate is to revert to the consideration of the unfinished business.

Mr. GORE. Very well. I recognize that parliamentary procedure would require such action to be taken.

REGULATION OF PUBLIC-UTILITY HOLDING COMPANIES

The PRESIDENT pro tempore. Under the unanimous-consent agreement of yesterday the Chair lays before the Senate the unfinished business.

The Senate resumed consideration of the bill (S. 2796) to provide for the control and elimination of public-utility holding companies operating or marketing securities in interstate and foreign commerce and through the mails, to regulate the transmission and sale of electric energy in interstate commerce, to amend the Federal Water Power Act, and for other purposes.

Mr. HARRISON. Mr. President, may I be permitted to state that, immediately following the vote on the pending bill to regulate holding companies, I shall renew my effort to have the joint resolution extending the National Industrial Recovery Act acted upon by the Senate? I may also state that I hope we can finish it today.

Mr. BORAH. Mr. President, I should like to make a suggestion to the Senator, in order that he may be considering it during the interim when the joint resolution shall again be before the Senate. I shall, at the proper time, move to strike out the words "offend against existing law" and insert "violate the antitrust laws." Clause 2 would then read:

Prohibiting unfair competitive practices which violate the antitrust laws or which constitute unfair methods of competition under the Federal Trade Commission Act, as amended.

I hope the Senator will give that suggestion consideration.

Mr. HARRISON. I hope the Senator will not offer that amendment. We spent some 3 hours yesterday trying to reconcile our views on this proposition.

Mr. BORAH. If the Senator has construed this clause correctly, the amendment I have suggested will make no change whatever in the proposition. It will make the provision definite and certain.

Mr. HARRISON. The effect would be the same in either case if the Senator's amendment should be adopted or if the language proposed by the committee should be adopted.

Mr. BORAH. The language of the joint resolution reads, "existing law." The National Recovery Act itself is "existing law."

Mr. DIETERICH. I now desire to call up for consideration amendments offered by me to section 11, being a series of about four amendments to that section. I wish to consolidate two of those amendments so that the consolidated amendment will read, as follows:

On page 43, line 24, after the word "hearing", strike out all of page 44 down to and including line 15, on page 45, and insert the following:

After January 1, 1938, to require the corporate structure of the holding-company system of each registered holding company to be simplified to the extent that such corporate structure contains unnecessary complexities which are detrimental to the interests of investors, consumers, and the general public; and to that end to require such registered holding company and each subsidiary public-utility company thereof to take such action as may be necessary to accomplish such simplification; and to require each registered holding company and each subsidiary public-utility company thereof to confer unrestricted voting power upon the holders of all shares of stock of such company, irrespective of class, to the extent that the Commission finds it necessary in order to ensure that voting power is fairly and equitably distributed among the holders of securities of such company.

I desire to address myself first to the bill.

Mr. COPELAND. Mr. President, will the Senator yield?

Mr. DIETERICH. I yield.

Mr. COPELAND. I notice that one of the amendments of the Senator is on page 43, to strike out lines 19, 20, 21, and 22.

Mr. DIETERICH. I will come to that later. The main amendment is the consolidated amendment which I have read.

Mr. COPELAND. The Senator still has in mind the amendment to which I have referred.

Mr. DIETERICH. I still have that amendment in mind. I have introduced a series of amendments designed to eliminate from this bill the so-called "death sentence." Those amendments go to section 1, section 2, and section 11, and there is another amendment to the water-power title of the bill.

Mr. President, there is no question what the purpose of this bill is; there is no question as to what is the ultimate end intended to be reached by the authors of the bill. This bill, instead of regulating and correcting evils that exist in holding companies, is an effort to bring about public control of all the utilities in the United States. There has been such a school of philosophy in this country for some time. I can read this bill and harmonize it with the views of that school. I say this, with all respect to the Senator from Montana [Mr. WHEELER], because at one time he was a candidate for Vice President on a platform which declared for the public ownership of utilities. Of course, everyone has the right to espouse any philosophy he likes, and no one has a right to challenge him in the exercise of that right; but there is no question that this bill is the beginning of an effort to accomplish the purpose I have indicated.

A significant thing occurred in the debate the other day on the floor when it was pointed out that certain large corporations engaged in the utilities field were exempted from the provisions of the bill. In other words, the desire was to put them in a position where they could be taken one at a time, whereas if all the holding companies were combined in one bill the movement might not be so successful. If the holding-company system is bad in the utility field, it is bad in every field. If there are abuses to be corrected in the case of holding companies in the utility field, certainly similar abuses exist in every field where promotional holding companies exist.

So I say the bill is a step not necessarily to do that which our platform declares should be done, not necessarily to do that which the President wants to have done, namely, to squeeze the "racket" out of the holding-company system and to leave the good; but this proposed legislation is an effort to seize that sentiment as an excuse absolutely to gain control of every utility in the United States, with the further purpose of establishing the Federal Government as a competitor which will eventually acquire the entire industry.

Those are my honest convictions. I have listened to the arguments presented here, and I know that the Senate is not concerned with abusing utterances, even though those abused may be wrongdoers. The Senate should have the dignity and the courage and the patience to sit down and digest a measure of this kind. If abuses exist which work a hardship upon our people, we are certainly big enough, courageous enough, and intelligent enough to correct such abuses without destroying that which might be useful and that which might be legitimate.

There is no question that there is a necessity for holding companies in the public-utility field. There is no question that some holding companies are functioning legitimately in this field. There is no way in which the private utility at one time could be financed except it had a central organization to which it might go. Many of the holding com-

panies are simply companies which are serving individual utilities.

Much has been said on the floor of the Senate of the attitude of the Chief Executive. The President makes his wishes known to the Congress by message and not by private communication. As one Member of the Senate who, I believe, has always respected his views, has always followed him, many times even to the extent of surrendering some of my own convictions, I am authorized to say that I do not believe it is in the Executive mind for one moment to try to destroy those companies which are serving a useful purpose. I think it is his desire, and I have as much right to speak for him as has any other Senator, that the Congress should pass a bill which would eliminate the racket, the promotion scheme, and let the good remain.

Coming to the amendment to section 11, I was rather amused yesterday at the colloquy which took place between the Senator from Maryland [Mr. TYDINGS] and the Senator from Montana [Mr. WHEELER] in which the Senator from Montana in explaining the bill to the Senator from Maryland, and especially that part of the bill which eliminates all holding companies, said that it set up certain standards, and if those standards were complied with the holding company might remain in existence. I fail to find any real standards in the bill. The only possible standard is in clause 3 of section 11, where it is provided that it shall be the duty of the Commission—

(3) Promptly after January 1, 1940, to require each holding company to take such steps * * * as the Commission finds necessary or appropriate to make such company cease to be a holding company.

There is inserted after the word "steps", a parenthetical clause reading—

(either by divesting itself of control, securities, or other assets, or by reorganization or dissolution, or otherwise).

Then follows a proviso, and the proviso is the only clause which would include the standards supposed to be laid down in the bill. The proviso reads:

Provided, however, That the Commission, upon such terms and conditions as it may find necessary or appropriate in the public interest or for the protection of investors or consumers, shall permit a registered holding company to continue to be a holding company if such company has obtained from the Federal Power Commission a certificate that the continuance of the holding-company relation is necessary, under the applicable State or foreign law, for the operations of a geographically and economically integrated public-utility system serving an economic region in a single State or extending into two or more contiguous States or into a contiguous foreign country.

The standard is simply left to the opinion of the Commission under the bill. There are no standards laid down.

Mr. LONG. Mr. President, will the Senator pardon a question?

The PRESIDENT pro tempore. Does the Senator from Illinois yield to the Senator from Louisiana?

Mr. DIETERICH. I yield.

Mr. LONG. I want to know if it was not in the State of Illinois that Insull had his holding companies?

Mr. DIETERICH. Mr. President, I do not care to have my speech spluttered up with any political talk of any kind. There is no one who sympathizes with Insull, and no doubt the people of Illinois are just as anxious to have legislation enacted to prevent the recurrence of such a condition as are any other people in the United States. However, there are holding companies in Illinois which serve a useful purpose, holding companies in which sums of money were invested by the ordinary run of citizenship of Illinois, invested, of course, because they were solicited to invest it.

Much has been said of propaganda. The propaganda has been somewhat annoying, but I know that some of it comes from the hearts of a people who have invested their life's savings in such stocks and bonds and who expect the Congress to try to correct any evil which may exist without destroying the value of their securities and without taking from them that in which they have invested their money.

Mr. President, I do not know that it is necessary further to discuss the bill. The amendment is intended to give full control and absolute power of regulation. The only thing it would take out of the bill is the death sentence that holding companies shall cease to exist after 1940. The amendment would give the Commission the power to make the investigation and determine those companies which shall go out of existence. Although the bill lays down no standards, yet I contend that it should lay down standards.

The PRESIDENT pro tempore. The time of the Senator on the bill has expired. He has 10 minutes on the amendment.

Mr. DIETERICH. Very well; I shall take my time on the amendment.

Mr. COUZENS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Illinois yield to the Senator from Michigan?

Mr. DIETERICH. I yield.

Mr. COUZENS. What standards are contained in the amendment of the Senator from Illinois that are not contained in the bill? I heard him read the amendment, but I did not understand what standards were provided.

Mr. DIETERICH. I do not understand the Senator's question.

Mr. COUZENS. The Senator is complaining that there are no standards set up in section 11. I wish he would point out, if he will, where, in his own amendment, the standards are set up.

Mr. DIETERICH. The standards in the amendment are more definite than those contained in the original text of the bill, because there are some standards set up to guide the Commission in determining which company shall be regulated and what abuses shall be corrected, and the decision is not left entirely to their judgment and their whim.

As I have said, I think there is no use prolonging the discussion. I think the Senate understands the situation. The series of amendments which I have introduced are intended merely to eliminate the arbitrary power to strike down an industry, whether it is legitimate or illegitimate, whether it is operating honestly or dishonestly, together with those industries which might need regulation and might need correction.

Waiving whatever other views I have on the bill, I think the amendment now before the Senate would leave the bill in a condition where some good might be accomplished. If the amendment were adopted, I certainly would be in honor bound not to vote against the passage of the measure.

Mr. WHEELER. Mr. President, I hope this amendment will not be adopted.

When this bill was introduced in the Senate it was considered by the Senate Committee on Interstate Commerce for more than 3 solid weeks.

First, for 1 week we listened to representatives of the Government from the Federal Trade Commission and from the other branches of the Government service, who had made a 7-year study of the evils of the holding company.

Next, we heard for 1 solid week, both afternoon and evening, the testimony of the utility interests themselves.

Next, for 1 solid week we held executive sessions in which we took up amendment after amendment suggested both by the State regulatory bodies and by the utilities themselves.

After giving that study to the bill we reported it out on the floor of the Senate.

I must say to the Senate, however, that as a matter of fact the utilities, of course, made no constructive suggestions, excepting one. The only important suggestion they made at any time was the elimination of section 11.

Section 11 is the very heart of the pending bill. Without section 11, and with the amendments suggested by the Senator from Illinois [Mr. DIETERICH], the heart of the bill would be absolutely taken out. Let me call attention to these facts:

Much has been said as to the President's attitude with reference to this bill. Much has been said as to his wishes in this matter. I desire to call attention to the fact that the President, in his message, said:

Except where it is absolutely necessary to the continued functioning of a geographically integrated operating utility system, the utility-holding company with its present powers must go.

Could language be any plainer than that?

Mr. BAILEY. Mr. President, may I interrupt the Senator?

Mr. WHEELER. I yield to the Senator from North Carolina.

Mr. BAILEY. The President says, "The holding company with its present powers." This bill has taken away all of its present powers. That is the difference.

Mr. WHEELER. Very well. Let me say to the Senator, if there is any further question about it—and I do not think I am violating any confidence with reference to the President's views in this matter—that when it was stated upon the floor of the Senate on a previous occasion, when it was whispered around the cloakrooms that the President, as a matter of fact, was not for this bill, and I inquired what his stand was and how he felt about it, he sent for the Senator from Kentucky [Mr. BARKLEY] and myself and said, on June 6:

> To verify my talk with you this morning, I am very clear in my own mind that while clarifying or minor amendments to section 11 cannot be objected to nevertheless any amendment which goes to the heart or major objective of section 11 would strike at the bill itself and is wholly contrary to the recommendations of my message.
>
> Sincerely,
>
> FRANKLIN D. ROOSEVELT.

So I think there can be no question in the mind of anybody as to what the President thinks about the bill, because he said that he is entirely familiar with it and exactly what this section means is perfectly clear to his mind.

Now, let me call attention to the fact that I have accepted amendments to the bill. The question was raised as to its constitutionality, in that it was thought there might be some question as to whether it included corporations which were not engaged in interstate commerce.

The Senator from Tennessee [Mr. MCKELLAR] put in a very helpful amendment, in my judgment, providing that it was the policy of the bill to deal only with those companies which were engaged in interstate commerce. Then the Senator from North Carolina [Mr. BAILEY] and I worked out in detail many amendments which I felt were helpful to the bill. I have accepted every amendment offered by various Senators which I felt would be helpful. Of course, I could not accept those amendments which I knew were going to kill the bill.

Let Senators not make any mistake about the matter. When they vote for this amendment they vote to kill the bill. When they vote for this amendment they are voting as the lobbyists up in the galleries, representing the Power Trust, want them to vote, because the lobbyists want them to vote to kill the bill. They are asking what, Mr. President? They are asking Senators in this amendment to let the Commission say what? To let the Commission say what shall be done, without establishing any standards whatsoever.

The first attack against the bill was that it would hurt the investor, that it was legally and economically impossible to carry out the President's program to meet the dangers of utility holding companies without ruining all investors in all public-utility securities.

On March 28 I made a speech on the floor of the Senate in which I analyzed at length the purported arguments of that kind against the bill. I think I answered them. At any rate, those opposed to the bill have never really tried to argue about the investor problem since. They have only reasserted over and over again their first general conclusion. They have not ventured to prepare a reasoned reply either to my speech of March 28 or to the committee's report explaining the revised bill and the amendments the committee adopted to give added protection to the investor's interest, or to the speech of the Senator from New Hampshire [Mr. BROWN] on the floor of the Senate last Friday.

The second argument made against the bill was an argument of unconstitutionality. In fact, the debate on the floor during the past week has been virtually confined to the question of constitutional power. I think the committee has answered that argument step by step, until most of those who are willing to listen to arguments are at least inwardly convinced that even within the frame of the Schechter case the bill is constitutional. Even the Senator from Delaware [Mr. HASTINGS] admitted the broad power of Congress to restrict and even prohibit traffic in interstate commerce which is dangerous and harmful. His difference with the committee is simply that he minimizes the evils of the holding company and believes that the dangers of excessive concentration of economic power have been exaggerated. But that certainly is an issue upon which the legislative judgment of the Congress will be and must be under our constitutional system accepted by the Supreme Court as they accepted it with reference to the practices that took place in future sales, decided by the Supreme Court in the case of Chicago Board of Trade against Olsen.

The real issue is not that of constitutional power, but of legislative policy. That is the question with which we are faced.

Now let us look at the amendment to section 11 proposed by the Senator from Illinois [Mr. DIETERICH].

The Dieterich amendment would require that holding companies should be simplified in their capital and intercompany structure and be arranged so that the voting power in the holding-company system should be equitably distributed. Section 11 as it now stands in the bill requires not only that these things be done but requires in addition that over a period of years the great, giant holding companies which now sprawl their power over the entire United States, and control practically all our operating utilities, should be required to rearrange themselves so that the operating properties under the control of any one of them should be limited to a single interconnected system in a fairly compact economic region.

Insofar as any danger to the investor is concerned—and we have heard that talked about—readjustments of the capital and intercompany structure of the holding companies will cause practically as much reorganization of the investor's rights as will a thorough rearrangement of the sprawling holding companies into the single integrated systems required by the bill as it now stands. And insofar as constitutionality is concerned, the Dieterich amendment puts at least as much, if not more, discretion in the Commission to consider on what companies the Commission shall operate, and how and why, as does section 11 in the form in which it now is drafted in the bill.

The PRESIDENT pro tempore. The Senator's time on the amendment has expired.

Mr. WHEELER. Then I will speak on the bill. The reasons behind the Dieterich amendment, therefore, are not the protection of the investor or the constitutionality of the bill. The real reason is a reason of policy—a real challenge to the President's position that we cannot continue to permit giant billion-dollar holding-company systems to sprawl all over the United States and control our entire economic and political life, and that we must require them to reduce themselves to a size and a power where the public can cope with them, really regulate them, and make them its servants instead of its masters.

The argument that giant companies must be allowed to continue, and to continue to sprawl, because of advantages of diversification of risk to the investor, are answered in full in the committee report. The blunt truth is that no such safety through diversification has accrued to the investor in holding-company securities. I challenge any Senator upon the floor to point to one place where such diversification has helped the investor. However theoretically possible, that advantage has always been actually outweighed by the inefficiency of absentee management and by the constant temptation to such Nation-wide companies to play high finance instead of operating utilities. The losses to investors in holding-company securities have been almost in proportion to the degree to which the company pretended to be diversified. What are the great diversified holding-company systems? Insull, Associated Gas, United Corporation, Electric Bond & Share. And what are the sickest holding-company

securities? The securities of these very companies, selling at from one-twentieth to one one-hundredth of their 1929 highs. The record of the holding company demonstrates how right the President was when he stated in his message that "an investment company ceases to be an investment company when it embarks into business and management" and that "investment judgment requires the judicial appraisal of other people's management."

With that specious argument of diversification going out of the window, the real difference of policy between Mr. Roosevelt's section 11 and the Dieterich amendment becomes cruelly and nakedly clear. The issue is not constitutional power. The issue is not the investor's equity. The real issue is the issue of Power Trust control of concentration of economic power. The holding-company managers and their bankers are fighting nobody's battle but their own. They are fighting to retain their empires, their control over other people's money, other people's property, other people's business, other people's lives. In their effort to retain that control some of the power interests are willing to accept the Dieterich amendment, which will permit the simplification of their capital structures, which will permit those reorganizations which they claimed would ruin the investor, because the Dieterich amendment is carefully framed so as to leave untouched the fundamental breadth of their empires and their economic power.

Must we permit these great holding companies to continue as concentrations of economic power which can hold the economic life of the country by the throat and politically terrorize even the Congress of the United States, as they have terrorized us in the last 3 months? Or have we as a Nation and as a Congress the nerve to begin to put an end to such a concentration of economic and political power and demand that the artificial corporations to which we intrust the legalized monopolies of our great public-utility business shall be servants and a part of the American democracy instead of its plutocratic master? There is the real issue between Dieterich and Roosevelt. It was the issue between Hoover and Roosevelt in 1932. It is the real issue on this amendment. All the rest is a lot of smoke screen to cover up the real meaning of this attempt to emasculate this administration bill.

Section 11 as it stands is the very heart of this bill. It is an absolute necessity for real regulation—a regulation which will work. Effective public regulation is a matter of human abilities, not of phrases in a statute. The man power of Federal commissions is no more superhuman than the man power of State commissions. No regulatory commission—Federal, State, or local—can successfully regulate corporations with resources of hundreds of millions, or even billions of dollars. No commission can successfully stand up for any period of time against the pounding of batteries of the highest paid experts and lawyers in the country, the distrusts created by skillful propagandists, the frightened pressures of deluded, regimented investors, the subtle attempts to employ away the ablest personnel, the brazen corruption of political influence.

The very essence of a common-sense scheme of public regulation is, therefore, that the corporations to be regulated should not be permitted to reach a size and power and a complication where a Federal regulatory body cannot be a match for them. These cold-blooded factors of man power and money power have made State regulation of utilities an admitted failure, and, to speak bluntly, have in many cases already made comparable Federal regulation of other great corporations merely a shield behind which the supposedly regulated corporations can hide from public criticism rather than a sword with which government can keep them from plundering the public.

All that is done by section 11 is done by that part which the Dieterich amendment would discard. It is an attempt to whittle down the size and power and complication of these giant corporations until the Federal and State commission can be a match for them. It does not destroy holding companies. But it does say to them, "You've made so much trouble that if you're going to go on doing business in this country controlling legal monopolies which the public must be able to regulate, you've got to trim down to a size and power and structure where the public can cope with you."

I do not know whether Senators think that ought to be called "elimination", but I do know it is the very essence of a realistic approach to regulation; and the utilities know it, too. Naturally, they fight every word of every provision in the bill. But notice that their real fire has been concentrated not on the specific regulatory provisions, but on section 11. For they are realistic about themselves, and they know perfectly well that if they can remove from this bill any provisions tending to reduce them to a size and a power and simplicity which will make it humanly possible for a regulatory commission to handle them, the bill can contain all the words about regulation we choose to put into it, and yet be nothing but a glorified scrap of paper. Let us not stick our heads in the sand of regulatory words and miss the big realities.

With the help of section 11 to press and to help the progressive elements in the industry into voluntary rearrangements of the holding-company systems until they are amenable to regulation, the more specific regulatory features of the bill have some chance to be effectively operative. Without section 11 they have no chance at all. The vote on section 11 of the bill is the real vote on the whole bill.

Mr. President, the Senator from Illinois has seen fit to attempt to attack me by saying that my economic philosophy is so-and-so. My economic philosophy had nothing to do with the drafting of the bill. It embodies the economic philosophy of the President of the United States. I had nothing to do with it. I lay no claim to it, but as Chairman of the Committee on Interstate Commerce I am carrying out to the best of my ability the wishes of the President and his economic philosophy with reference to the bill.

To those who have criticized me in the past because I did not stand by the President I say that I am for him in this matter because I believe that his policy is sound. I say to the Senator from Illinois, instead of the Government taking over these companies under the proposal of the bill, if we let these great combinations of wealth, sprawling all over the United States, concentrate in fewer and fewer hands, we are going to reap a whirlwind, and we are going to do the very thing the Senator from Illinois fears I want to do.

I do not want to see the Government of the United States have to take over these great organizations, but I say to the Senate that unless we have the courage, unless we have the backbone, to deal with these holding companies and to deal with them effectively, as is provided in this bill, the people of the United States will demand that they be taken over.

Mr. BAILEY. Mr. President——

Mr. WHEELER. This is a step to preserve the private operation of utilities and to preserve the private control of utilities in this country. It is a step to keep the United States Government out of utility ownership, and if we let the companies go along and be concentrated in fewer and fewer hands, if we let the practices indulged by Mr. Insull and the Electric Bond & Share Co. continue, just as surely as that we are sitting here will the people of the United States demand that these great concerns be taken over.

I yield to the Senator from North Carolina.

Mr. BAILEY. What I wish to know from the Senator is whether or not he has not in this bill fully provided for absolute control of these holding companies by means of the very broadest exercise of discretion on the part of the Power Commission; and if that control has been fully provided, why should the Senator appeal to us to commit the Congress and the Government to a policy of destruction?

Mr. WHEELER. Mr. President, let me clear this matter up. First of all, I want to say that the bill is not founded on a policy of destruction in any sense of the word. Was it a policy of destruction when the Congress of the United States passed the Sherman antitrust law and said to the Standard Oil Co., "You cannot as one great giant corporation spread

all over this country"? That was not looked upon by the Members of the Senate as a policy of destruction. In dealing with that problem, were they less courageous or more courageous than we are?

Secondly, let me say to the Senator that the whole theory of the bill and the whole theory of regulation is woven around the policy of a holding company that can operate in a particular community. In the great sprawling companies there are all of the evils of absentee landlordship. There are all the evils of private socialism creeping into those companies, just as the President of the United States pointed out. We cannot in a bill begin merely to regulate these great holding companies, because the minute we touch some of the evils that have crept in by reason of the system itself they are able to set up others to get around the regulatory features. The regulatory features set up in the bill before us are for the purpose of regulating the integrated companies.

Mr. BAILEY. Mr. President, will the Senator yield?

Mr. WHEELER. I yield.

Mr. BAILEY. That is just the point; I wish to have the Senator show us wherein the provisions of the bill which he is supporting do not fully place the holding companies, in any aspect of them, in the hands of the Power Commission. I have been proceeding on the theory that that had been well done, and I wished that to be done; but, if that has not been well done, let us see some amendments by which it may be done.

Mr. WHEELER. Let me say to the Senator that I think it has been as well done as it could possibly be done in the light of the experience of the past. The difficulty is with the system itself, with the holding companies. I think there is no Member of the Senate who will not say that every one of these great holding companies has been guilty of the abuses which have been referred to and to others. All we can do at the present time is to try to prevent abuses such as have taken place in the past. But when we confront a great sprawling system, which extends from one end of the country to the other, how are we going to regulate absentee landlordship and all the other evils which grow out of it?

Take from the operating company the local control in Montana, in Florida, in North Carolina, and put it in the city of New York, and evil results. The people of the city of New York, where the great sprawling system is located, are interested in profits from the sale of watered stocks. The only way they can make money out of the system is by milking the operating company.

When gentlemen speak of investors, let them think of those who have invested $13,000,000,000 in appliances in this country; let them think of the consumers of electricity, for the only way this great sprawling holding-company system can serve the investors of this country is by milking the consumers and milking the investors in public-utility operating companies.

I say that the holding company has no place in our economic life. It is a detriment, and if we permit it to continue it will wreck the country.

The Dieterich amendment would permit the Commission to say to any one of these companies, and to every one of them, "You may remain here. You do not have to get out. If it is a bad thing for the investors of this country to put you out of business, then you can stay in business. Even if it is a bad thing for the public, you can stay in business. If it is a bad thing for somebody else, then you can remain in business." That is what it means.

There is talk about setting up standards. By the pending amendment there is no standard fixed, except what happens to be in the mind of the Commission, as to whether or not a company shall be dissolved, whether or not the intermediary companies shall be dissolved. They will not be dissolved unless the Commission thinks that it is in the interest of the investors to dissolve them.

What commission is there in the United States that could stand up under that kind of pressure, when Members of the Senate tell me that they cannot stand up and vote for what they believe to be in the interest of the people of the country because holding-company representatives sitting in the galleries here, lobbyists, have been working on them and pounding on them by the propaganda they have sent out? When we ourselves do not dare to stand up, how can we expect it to be possible for some commission appointed by the President of the United States to have the courage to stand up?

If we adopt the Dieterich amendment we are going to ask a commission to do something which we do not dare do ourselves. We are passing the buck to a commission because we have not the courage and the backbone to stand up and say to our constituents and to the people of the country, "We are going to pass this measure. We are going to say to these companies that they have to be in a certain place because they are a local industry, that they have to be where the people of their communities can control them; and that they cannot have their offices in the city of New York, where they are completely out of contact and out of sympathy with the local communities in which they are doing business."

Mr. HASTINGS. Mr. President, will the Senator yield?

Mr. WHEELER. I yield.

Mr. HASTINGS. It seems to me the Senator has not stated correctly the Dieterich amendment. As I understand, it gives authority to the Commission, "after January 1, 1938, to require the corporate structure of the holding-company system of each registered holding company to be simplified."

Mr. WHEELER. Yes, of course. And what does that mean? It simply means that it leaves it to the holding-company system.

Mr. HASTINGS. It leaves it to the Commission, and bear in mind that the bill leaves nearly everything to the Commission.

Mr. WHEELER. Oh, no.

Mr. HASTINGS. With certain instructions.

Mr. WHEELER. Mr. President, my time is extremely limited, but I want to say that the Dieterich amendment leaves it up to the Commission without any standard whatsoever excepting the standard of what is in the interest of the investors.

The PRESIDENT pro tempore. The Senator's time has expired on the amendment and also on the bill.

Mr. BLACK. Mr. President, it had not been my intention to discuss the pending amendment or the bill until the Senator from Illinois [Mr. DIETERICH] made his address with reference to his amendment. I do not agree with him, however, that this bill leads in the direction of Government operation of power.

Mr. BONE. Mr. President, will the Senator yield?

Mr. BLACK. I yield.

Mr. BONE. The suggestion which the Senator from Alabama has just made is rather an interesting one. I wish to ask the Senator if in his experience he ever heard before the suggestion that so-called "regulation" of utilities would lead to their public operation? I wish to say to the Senator that in 25 years of active touch with the utility problems in the Northwest the first time I ever heard that statement made was when it was made here on the floor of the Senate.

Mr. BLACK. I should like to say that, in my judgment, if the bill shall not be passed, and if the holding-company system shall be allowed to survive, the people of this Nation who oppose racketeering, grafting, stealing, and fraud will bring about a Government operation of power and other utilities and other business.

I do not agree at all that the bill will lead to Government operation. I believe that the bill offers one obstacle against the further bearing down upon the business enterprises of this country by a few high-powered promoters, profiteers, and so-called "financiers" who are behind the propaganda against the bill.

Who is behind it? When I receive letters, messages, and telegrams regarding this bill, as I have received them by the thousands from various sections of the country, I am reminded to some extent of the telegrams and messages which one would receive from a person who has been kidnaped and has a pistol pointed at his throat. He is required to send a

message to save himself, and to save himself by saving those who are threatening his life.

I wish to meet this issue with respect to the holding company, fairly and squarely. I agree with certain of the statements made by the Senator from Illinois that if the holding-company system is bad with reference to the control of electric power it is bad with reference to the control of other business. I accept that statement.

I am against the holding-company system, whether in power, railroads, telephones, aviation, shipping, or any other business where there is given to those who manipulate the holding company the power to execute a device to defraud their stockholders, to impose upon the public, to extract exorbitant profits from the consumers, and under the name of salaries and bonuses to press down a burden upon the operating business of this country which if not prevented will sooner or later destroy it.

I did not entertain that belief to this extent until I was called upon by vote of the Senate to investigate certain ocean- and air-mail contracts. It took, in some instances, 8 months for trained investigators to draw anything that looked like a picture of the holding companies and their system of subsidiaries, associates, and affiliates in the various industries we were called upon to investigate.

In one instance it took eight solid months, with numerous investigators in the offices of numerous companies, with repeated special questionnaires addressed to the companies, finally to extract with a corkscrew sufficient information to find out if the man who was at the top of the pinnacle had drawn $434,000 the year before from an industry, when they had claimed that that part of it which was subsidized by the Government was losing money.

I state that from the investigation we made of shipping business and aviation business we found practically every contractor was tied up in a network and mesh and spider web so that it was impossible even for him to recognize who was president of the company. I did not find one instance in which, in my judgment, there was the slightest excuse for any honest man to reach a conclusion that a single one of those holding companies was constructed for any purpose except as a device to defraud and to steal and to profiteer at the expense of their stockholders, of the consumers, and of the United States Government.

So, Mr. President, so far as I am concerned, I have no more sympathy with attempting to regulate a holding company than I would have with attempting to regulate a rattlesnake. We might provide laws stating that the rattlesnake, when he prepares to jump, should only strike at harmful insects. You can regulate to that extent, but you cannot enforce such regulation, and such regulation does no good. I admit that rattlesnakes have performed some useful purposes in the killing of harmful insects, but is that any reason why we should prolong their lives, because, forsooth, in some single, isolated instance some possible good can be performed?

I am not arguing for the destruction of the holding companies in an effort to precipitate Government operation of utilities. I am arguing on the simple basis of common, everyday decency and honesty. I believe that the private utilities of this country have been hampered and handicapped in an effort to compete with municipal plants by the parasites sitting at the top, blood suckers, with their exorbitant, unearned profits masquerading under the names of salaries and bonuses, and by devices enabling them to contrive fraudulent contracts.

Let me give the Senate an example which will apply to all of them. Let us take a shipping company or an aviation company. I intend to offer an amendment to the shipping bill to prohibit holding companies, associates, and affiliates. Let us take an aviation company. We uncovered an order, and, as a matter of fact, this is a frequent occurrence, and there is nothing surprising about it, the substance of which was: "Enter the price of these airplanes at $55,000 at this time. When we get ready, and it becomes necessary, we will change the amount." There was no reason why they should not do that. They owned or controlled the company against which the charges were made. They owned the company which built the airplanes. They owned other companies.

The situation is exactly the same with reference to power. They organize a construction company and it is owned or controlled by the same men who own or control the other companies through their subsidiary and holding companies. They make a contract. They cannot be regulated in making that contract. When we provided for the retention of the artificial fiction of corporate relationship beyond the first degree we went further, in my judgment, than it was ever necessary to go.

To a man before our committee I presented a map which we worked out after 3 months to show how many companies were tied up with each other, and I asked him to identify them, and he could not do it. He said he supposed we knew more about it than he did. I told him that he ought to know more about it than we did, since he was the one who was drawing the salary. Finally, I asked him the name of a company and he looked at me with blank amazement and said, "What?" I repeated the name of the company. "Why", he said, "I never heard of it." I said, "That is a little strange. Your income-tax return shows you drew $7,500 salary last year from that company as being its president." Then he turned around and whispered to his lawyer. They always have to turn around to their lawyer or to some subordinate who is not drawing the high salary and extracting the large amount the "higher ups" are taking from the companies.

The PRESIDENT pro tempore. The time of the Senator on the amendment has expired. The Senator has 15 minutes on the bill.

Mr. BLACK. Mr. President, I should prefer to take my 15 minutes on the bill at this time.

The PRESIDENT pro tempore. The Senator then has 5 minutes longer on the bill.

Mr. BLACK. The witness then turned around, after whispering to his lawyer and some of his associates, and said, "Yes, I am the president of that company, and I did draw $7,500 salary." I said to him, "Did you ever visit the west coast?" He said, "Yes, I have visited the west coast." I asked him, "Did you visit this company at the time you visited the west coast?" He turned around again after consulting with his lawyer and said, "It was not necessary for me to visit it out on the west coast because its headquarters are in New York in my office."

The head of that company, the name of which he did not recognize, a company located out on the west coast and engaged in a little stevedoring business, making exorbitant profits, extracting money from the consumers and from the United States Government indirectly through its subsidized shipping interests, finally discovered that the headquarters were in his office in the great city of New York!

Mr. President, I have no hesitation in voting to strike down holding companies. I do not desire my position misunderstood. I am not simply voting to regulate them; I am voting to destroy them as holding companies with their network of chicanery, deceit, fraud, graft, and racketeering.

When some persons engage in racketeering they have courage enough to go out and risk their lives. Others do not. They work by the new method of manipulation, chicanery, and fraud. As between the two I desire to state that I will place as public enemy no. 1, not the man who risks his own life in order to extract $50 or $100, but the men who by chicanery and fraud and by trampling upon the moral precepts and traditions of this Nation, thereby destroying the efforts of the people, extracts money which he does not earn and takes it away from people who have earned it by their labor.

So, Mr. President, so far as I am concerned, I am against striking section 11 from this bill. I am against tapping men on the wrist. I do not believe the passage of this bill will do an injury to a single legitimate stockholder; it will not reduce the intrinsic value of one dollar he has invested.

On the contrary, it will give him a recognized value, because the holding company will be compelled, if we can make them do it under the law—sometimes it is difficult—to give him a like interest in the operating company that he has indirectly in the holding company; and when he is given a direct interest in the operating company, which makes the money, there will be taken off the back of the operating company the holding company with its high salaries, with its fraudulent contracts, with its devices to rob both the stockholder and the public. Therefore, I deny that this bill, if enacted, will work an injury to legitimate stockholders of this Nation. I say, on the contrary, that it will afford the first ray of hope that has been brought to them since this vast corporate structure has been built up for the purpose of extracting from them the last nickel they have and from the consumers of this country the last poor dime it is possible to take in exorbitant prices for the commodities they must have in their homes.

I want it distinctly understood that I am not referring simply to holding companies in the power business; I am referring to an iniquitous system which has been built up in this country in other lines of business as well as in the power business, a blood-sucking system, a vampire, taking the lifeblood of commerce and trade and extracting money from those who have earned it by honest toil and putting it into the pockets of people whose only right to it is that by chicanery, by fraud, by manipulation within and without the law they have been able to obtain that which they did not earn. If it had been done by smaller individuals in smaller communities, it would have been called plain, ordinary larceny, and probably the perpetrators would have gone to the penitentiary.

So, Mr. President, without meaning to imply that every person who ever organized a holding company intended what I have described—for some have simply followed the habit of organized holding companies—I indict the holding-company system as such, as a device for fraud, for racketeering, for extracting exorbitant salaries and bonuses, which in reality are unearned profits, in siphoning them from the pockets of the people all over this Nation in every State of the Union, siphoning them by a power that is irresistible, and placing them in the pockets of those who did not earn them and who did not work but whose only claim is that, by fraud and chicanery, they have taken that which they did not earn.

The PRESIDENT pro tempore. The time of the Senator from Alabama has expired.

Mr. BARKLEY. Mr. President, we have heard our friends on the floor and off the floor of the Senate denounce this bill as a destructive measure. If we were to listen to all the jeremiads which have gone up from all over the country with respect to this bill, we might rightly reach the conclusion that upon its passage and its signature by the President every electric bulb in the United States will be destroyed and every switch which may be turned on to flood the homes of the world with light will disappear.

I deny as vehemently as I am capable of denying that this bill will destroy a single dollar's worth of real value anywhere in the United States. What are the real values in the public-utility field? The real values are the electric light plants that supply light and heat and power to the people of the country. The real values are the gas plants that have been established all over the United States, in almost every instance first by the local people investing their money in the local electric or gas utility. Then someone came along, bought them out, organized a holding company, wrote up its valuations, and sold the stock of the holding companies to the public. And we are asked to believe, because we propose to regulate and to require the reorganization of these giant holding companies, that we are to destroy every legitimate value in the United States, and in behalf of them we are told that all the widows and all the orphans in the Nation are to suffer and lose their life's earnings and their income if this bill shall become a law.

I do not know how many widows there are in this country. We have about 125,000,000 people, but if there are as many widows in the United States owning holding-company stock securities as we have been told since this bill was introduced into the Senate, then we are on the verge of race suicide. [Laughter.]

Mr. LONG. Mr. President, will the Senator yield?

The PRESIDENT pro tempore. Does the Senator from Kentucky yield to the Senator from Louisiana?

Mr. BARKLEY. I yield.

Mr. LONG. I was just wondering if they had stock of some company manufacturing burglar's appliances whether that would not be a reason why we ought not to pass any laws that would permit the enforcement of the criminal statutes. In this particular instance they have sold stock in institutions which has been watered about 4 times for 11 and sometimes worse than that.

Mr. BARKLEY. I thank the Senator, because I want to comment on that suggestion at this point.

In the only daily newspaper in my home city, the city of Paducah, Ky., there appeared an advertisement signed at the bottom by the Associated Gas & Electric system, which, by the way, is the holding company that somewhere down the line operates, or holds stock in companies that operate, six or eight utility plants in the State of Kentucky, one of them being in the county seat of the county in which I was born and in which this newspaper circulates very widely. The headline of this advertisement reads: "Railroading utilities to destruction."

That advertisement does not say anything about a holding company; it does not say anything about the company with its headquarters in New York that has its tentacles spread all over the United States like a devilfish. I do not like the word "octopus"; I want to use the word "devilfish", because that is what an octopus is.

Mr. BONE. Is that the Associated Gas?

Mr. BARKLEY. That is the Associated Gas & Electric Co., and in this newspaper published in my home town appeared this advertisement of more than one-quarter of a page. It went on to tell those people there, who had not read this bill and who do not know anything about it except what they have been told by the holding companies, that we were about to destroy their investments; that we were about to destroy the utility industry of this country. They asked those who read the advertisement to write to me and to my colleagues and request us to vote against this bill and they even included a form letter for every one of them to use in writing to my colleague and to me in asking us to vote against the measure.

I do not know whether there is a representative of the Associated Gas & Electric system in the galleries at this time, and I do not care whether there is, but if there is one there I want him to hear me say that there is not a single truthful statement contained in that advertisement of the Associated Gas & Electric Co. in the only daily newspaper that is published in my home city, and there is not a single truthful statement in the form letter that was printed alongside the advertisement which my constituents and my neighbors and my friends were asked to use in writing to me about this bill.

Mr. President, I am no more courageous, no more honest than any other Member of the Senate; probably I am not as much so as any other Member of the Senate; but if I did not have the courage to go back to my home city and tell the people there that they have been duped, defrauded, and deceived, I would not have courage enough to sit in this Chamber; and that is precisely what I am going to do if the occasion shall ever arise. These are the methods that have been used to try to scare United States Senators into voting against this bill.

I might add that yesterday the Washington Star contained an advertisement, which takes up a quarter of a page on page 17 of section A, which goes on to tell what we are trying to do and are about to do to the utilities system of the United States; then it sets out a form letter purporting to be a copy of a letter a widow in Michigan wrote to the Michigan Senators asking them to vote against this bill because it was going to destroy the value of the securities held by the widows and

the orphans who are being played here by these holding companies as mere pawns.

Mr. WHEELER. Mr. President, will the Senator yield?

The PRESIDING OFFICER (Mr. THOMAS of Utah in the chair). Does the Senator from Kentucky yield to the Senator from Montana?

Mr. BARKLEY. I yield to the Senator.

Mr. WHEELER. I merely wish to say that anybody who thinks that the adoption of the Dieterich amendment is going to take this issue out of politics is mistaken, for it will continue to be an issue, and 2 years from now the issue will be elimination in every State in the Union.

Mr. BARKLEY. Mr. President, I want to ask Senators, who are afraid of destroying some values, who it was that destroyed the investments of the widows and the orphans about whom we are talking?

Mr. MURPHY. Mr. President——

The PRESIDING OFFICER. Does the Senator from Kentucky yield to the Senator from Iowa?

Mr. BARKLEY. I yield.

Mr. MURPHY. As substantiating the statement made by the Senator that some of the holding companies are seeking to use investors as pawns, let me say that I have before me a letter dated Davenport, Iowa, 1702 Warren Street, and reading:

> My neighbors were telling me about a bill which would dissolve all utility holding companies in 5 years.
>
> I have invested my life savings in public-utility company securities and depended upon them to support me in my old age.
>
> If this Wheeler-Rayburn bill goes through, it would take away these securities. Please vote against this bill.

The letter is typewritten and the stockholder who sent it to me appends the following in his own handwriting:

> This letter was sent to me by the United Light & Power Co. to sign and send on to you in protest of the Wheeler-Rayburn bill. I am sending it to you not as a protest but as an illustration of what the power companies are doing in trying to bring about defeat of this bill. I own one $100 share of stock in the company mentioned above.

The letter is signed "H. C. Brockmann."

Mr. BARKLEY. What was the company to which he referred?

Mr. MURPHY. The United Light & Power Co.

Mr. BARKLEY. If we are going into the question of who has destroyed the value of the securities of innocent people, I should like to give the Senate a few figures.

Some years ago the Senate of the United States ordered an investigation of the utility industry and the holding companies, which endeavored to throttle it and are now undertaking to throttle the Government in its effort to protect these innocent people from further exploitation, further robbery, further deception on the part of these giant corporations with one hand on the utilities of Montana and another hand on the utilities of Florida or some other State.

How can anyone defend such a system as that? What right has a corporation in New York, for instance, to have one hand on the people of Montana and the other hand on the people of Florida, without any connection or any association with or any common interest between the utilities and the users of the utility companies' products in those widely separated sections?

I mentioned a while ago the Associated Gas & Electric Co., which has been advertising all over the United States, which I am told has appropriated out of its treasury more than $100,000 for advertising purposes in the newspapers of the United States. I ask what it has done for its stockholders?

In 1929 the stock of the Associated Gas & Electric Co. sold at $72.50 per share, and at this price hundreds of thousands of shares were bought by the people who have been mentioned in the debate. When the water was squeezed out in February 1933, the stock of the Associated Gas & Electric Co. was selling for $1.75 per share on the stock markets of the United States. In less than 4 years the value of the stock of this concern had gone down from $72.50 to $1.75, and the widows and orphans who bought that stock at those high prices are now being used to induce the Senate of the United States to defeat a bill which would protect them and others like them from similar exploitation in the years to come.

In 1929 the stock of the United Corporation sold on the market for $75.50 per share. In February 1933 it was selling at $5.50 a share. How many of the presidents and vice presidents and boards of directors of the United Corporation were then wailing about the widows who had bought their stock at $75 a share and who in February 1933 could only get $5 a share for it, before Mr. Roosevelt had been inaugurated as President of the United States and before anybody knew whether such a bill as this would be introduced?

There are some figures showing who has destroyed the value of the investments in these utilities—not in the utilities, no, but in the holding companies which weigh down upon them like the loads I have seen in Panama and in Haiti on the little donkeys which are the beasts of burden there. Sometimes those loads are so heavy and so burdensome that one could not even see the donkey for the load he carried. That is the situation with many of the utility companies. The load is so heavy we cannot see the utility company for the holding companies which are loaded on its back.

Mr. LONG. Mr. President, will the Senator yield?

Mr. BARKLEY. I yield.

Mr. LONG. If this bill had been a law 1 year before the Insull crash, it could hardly have been possible for half of that unloading of securities to have taken place, could it? Is not that correct?

Mr. BARKLEY. I think that is true, although I would go back a little further than 1 year. It may be some of the work had been going on prior to the 1 year the Senator mentions.

Mr. LONG. I mean that up to 1928 or 1929 they literally loaded the country down with holding-company stocks.

Mr. BARKLEY. Undoubtedly. Here is another company, United Founders, which is a holding company. In 1929 its stock was selling to the public for $75.50, but in February 1933 it was only bringing $1 on the markets of the United States. I ask whether Congress is destroying these values? I ask whether United States Senators are robbing the investors? I ask, rather, whether they have not been imposed upon by the holding companies and whether they were not so imposed upon long before any bill dealing with holding companies was ever introduced in the Senate of the United States or the House of Representatives of this Congress?

The Electric Bond & Share Co. is one of the larger holding companies which spreads all over the United States, extending even into the Philippine Islands and into Canada, and probably into Mexico. In 1929 the shares of the Electric Bond & Share Co. were bringing $189 on the market, and many innocent people were induced to buy those shares at $189; but by February 1933 the shares of the Electric Bond & Share Co. had gone down to $10 per share on the markets of the United States. Where was the robbery? What part did we play, I ask you, Mr. President, in the robbing of the people who bought the shares of the Electric Bond & Share Co. at $189 and then had to sell them for as little as $10?

Mr. TYDINGS. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Kentucky yield to the Senator from Maryland?

Mr. BARKLEY. Certainly.

Mr. TYDINGS. I was wondering at what price the company originally put its stock on the market.

Mr. BARKLEY. Those whose stocks were issued at a fixed par value of $100 in all likelihood put them on the market at that price. There has been a new device invented in recent years of issuing shares without any par value. In cases of that sort it is rather difficult, without going more minutely into the financial history of each company, to give the Senator the information.

Mr. TYDINGS. I did not want to take issue with the Senator, but it occurred to me that many prices were no

doubt the result of speculation by outsiders rather than by the companies themselves.

Mr. BARKLEY. I appreciate that. I am coming to one now. The Cities Service Co. stock in 1929 was selling at $68.50 on the curb market. I think its stock was not registered on the New York Stock Exchange. While the Cities Service Co. was putting out more than 40,000,000 shares of its stock, it was sending its agents to offices and homes and peddling its stock at from $30, $65, and $68 a share, and at the same time was selling its own stock on the market and then buying it on the same market in order to create an appearance of value, so that it might peddle its stock to the people of the country by sending its representatives to their houses and office buildings. I know within my own experience and acquaintance of working girls in the city of Washington who bought stock in the Cities Service Co. at $30, $40, $50, and $60 a share and were paying for it on the installment plan, who cannot get $2 a share for it today and could get but $2 a share for it in February 1933, before the Roosevelt administration took office and before a holding-company bill was introduced.

Yet we are told that we are about to destroy values here by passing a bill which will make it possible to control the great holding companies which are overlording the utilities, some of which are padding their accounts and their sales and their general expenses and their legal expenses in order that they may fit into a rate structure which will enable them to declare dividends upon stock that never had any value, and never can have any value, unless it is based upon the value of the operating utility which they control.

Mr. VANDENBERG. Mr. President, may I ask the Senator a question?

Mr. BARKLEY. I yield.

Mr. VANDENBERG. Will the Senator indicate to me, for my information, whether the Securities Act which we passed last year would have any protective effect upon situations of this character?

Mr. BARKLEY. It might have some effect, but not enough. The Securities Act which we passed simply required that corporations issuing stock must tell the truth about the stock. They must reveal to the public the value of the physical property behind the stock, so that an investor might be his own judge as to whether he desired to invest in that stock; but that act does not prevent the issue of such stock to the public when the information has been registered with the Commission. It punishes those who are responsible for any false information calculated to deceive the public, but it does not go to the extent of this bill in attempting to provide a reorganization and dissolution of these concerns which have spread out all over the country and have no intimate connection with the operation of the utilities where they exist.

Mr. VANDENBERG. Mr. President——

Mr. BARKLEY. I yield.

Mr. VANDENBERG. I understand that. I was wondering if, in the case of listed securities, there is not a necessity for direct license on the part of the governmental authorities.

Mr. BARKLEY. I will say to the Senator that there is much to commend that suggestion. Of course, in all this legislation, going back to 1920 and even beyond that time, by which we gave the Interstate Commerce Commission supervision over the issue of railroad securities, Congress has been compelled to be careful lest the public might take whatever we did as a guaranty of the validity and the soundness of the investment. We have not been willing to go that far, and I do not think the Government could go that far in attempting to guarantee the value of stocks. All we have attempted heretofore to do has been to require that the issuer of stocks reveal the truth to the public in order that they might make their own investigation and be their own judge as to the value of what they bought.

I desire to go down this list of holding companies for a moment.

Here is Commonwealth & Southern. We have heard a lot about that in the cloakrooms and in the committee and on the floor of the Senate. In 1929 Commonwealth & Southern was selling for $25 a share. In February 1933 it was selling for $1.75 a share. This bill was not responsible for that.

In 1929 American & Foreign Power was selling for $199 a share. In February 1933 it was selling for $3.75 a share. In 4 years the value of that stock had gone from $199 a share to $3.75 a share; and yet we are charged with trying to rob the American people because we are trying to take the load, the weight, the unjust burden of these holding companies off the people who pay into the coffers of the companies, in the form of rates, all the money they derive for any purpose for which they derive money in the payment of dividends. There are many other such companies whose stocks went to almost nothing before this bill was ever heard of.

Talk about widows! Are all the widows in this country owners of stocks in holding companies? How about the widow who earns her living by working in a factory or in a store or is a housekeeper, who has a few children she would like to educate, and who might desire some day to abolish the old smoky oil lamp and have electric light in her home so that by turning a fraction of an inch a dial on the wall she might bring light and comfort and heat to her home and to her children? There are more of those widows than there are of those who own stock in Associated Gas & Electric or in Standard Gas & Electric or in United Foundation or in any of the other holding companies that are now asking us to give them a new lease on life because they have suddenly discovered that they now favor regulation, whereas before they never indicated that they favored regulation.

When the late lamented Senator Walsh, of Montana, in 1928, introduced in the Senate a resolution to investigate these concerns, they were here, leaning over the balconies of the gallery, asking us, in God's name, not to turn over that investigation to Senator Walsh. "Deliver us from him!" they said. "Send the investigation down to the Federal Trade Commission"; and we sent it to the Federal Trade Commission, and they did a better job than the utility concerns expected them to do. They spent 7 years in the investigation, and their report contains more than 80 volumes; and largely as a result of the investigation of the Federal Trade Commission this bill is here today.

We have taken no snap judgment upon the people of the United States. We have taken no snap judgment upon investors. We have taken no snap judgment upon the holders of the bonds of these concerns. For 7 years we have been investigating the utility situation. The bill now before us was given more careful and more painstaking consideration than any other bill with which I have been familiar in many years of membership in both House and Senate; and I desire to say that in all my experience I have never seen a chairman of a committee more courteous, more laborious, more painstaking, more sincere, more anxious to get the truth and to consider every suggestion than the Senator from Montana [Mr. WHEELER], the chairman of the committee which reported this bill. After we had gone through the bill, word for word and page by page, we added so many amendments to it that the Senator from Montana had to reintroduce it as a new bill in order that it might not be cluttered up with amendments on every page and almost every line.

The PRESIDING OFFICER. The Senator's time has expired on the bill and on the amendment.

Mr. BARKLEY. Then I presume I am through. [Laughter.] I trust this amendment will be defeated.

Mr. HASTINGS. Mr. President, referring to the statement about the late Senator Walsh of Montana, I desire to call the attention of the Senator from Kentucky to the fact that on August 13, 1927, in speaking in regard to this subject, he said:

> Nor am I prepared to assert that anything can be done except insofar as the business under consideration is interstate in character.

A little further along in his statement he said:

> The holding company, though it exercises supervision and control over subsidiaries operating in half of the States of the Union, is not engaged in interstate commerce.

I merely wished to call attention to that statement made by the late Senator Walsh at the time he was suggesting the inquiry to which reference has been made.

Mr. BORAH. Mr. President, we are now considering the amendment offered by the Senator from Illinois [Mr. DIETERICH], and not the details of the provisions found in section 11.

The question presented by the amendment of the Senator from Illinois is whether we shall strike out the provisions of the bill which give power to terminate the existence of holding companies.

Mr. President, my view is that holding companies beyond the first degree, and certainly beyond the second degree, cannot be justified either as an economic factor or as in the interest of good government or the interest of the people of the United States.

I wish therefore, insofar as I may, having due regard to constitutional provisions in doing so, to contribute to the elimination of holding companies as such, certainly beyond the first or the second degree. Beyond that, in my opinion, they simply prey upon the public without returning anything to the public in justification for their existence.

Therefore, when we say we are prepared to regulate these companies, for myself I do not want them regulated. I do not think we can justify their existence. Furthermore, instead of the bill contributing toward public ownership, it seems to me that unless we do eliminate these companies and such practices as they indulge in, we shall necessarily drift toward public ownership. The people of the country never will consent that half a dozen men or a dozen men shall control from 80 to 90 subsidiary companies in the United States. That kind of economic dictatorship will inevitably lead to the Government taking over the absolute control of such utilities as we are now dealing with.

Mr. DIETERICH. Mr. President, will the Senator yield?

Mr. BORAH. I yield.

Mr. DIETERICH. I do not wish to consume the Senator's time by interruptions.

Mr. BORAH. I shall speak only a few minutes, so I am willing to be interrupted.

Mr. DIETERICH. Is there anything in the bill that would advance the Senator's ideas? Is any standard set up in the bill whereby holding companies in the third or fourth or fifth or sixth degree, and so on, would be eliminated under the bill?

Mr. BORAH. Mr. President, I stated that we were discussing the question which is presented by reason of the Senator's amendment, and not the details of section 11 itself. There may be some suggestions which ought to be made and which I have in contemplation, some of which I have already made, in regard to that matter. In other words, of course, in dealing with this subject we must keep within constitutional limits so that our work will be effective. If the standards are not sufficient, certainly we ought to undertake to make them sufficient; and instead of contributing our efforts toward eliminating section 11 entirely, we ought to contribute our efforts toward making section 11 effective under the Constitution. That, so far as I am concerned, I shall heartily join in doing.

Mr. President, I feel that this bill is here in a large measure because of the activities and the line of conduct of certain great holding companies. Of course, that does not include all holding companies, and yet it does in a large measure include all holding companies beyond the first or second degree. They have in many instances been unrestrained, and unrestrained because the States could not effectively control them and the National Government has not undertaken to do so. By reason of this unrestraint they have worked incalculable injury to the people.

The activities of some of these holding companies have been perfectly lawless. They have been in disregard of the interests of those to whom they were selling their stocks and their securities. They have been in disregard of the interests of the community and they have been in disregard of the interests of the entire country. It is by reason of those things that it became absolutely necessary that the Congress of the United States deal with the subject matter covered by the bill before us.

We certainly could not permit those things to go on indefinitely. We certainly could not permit such practices to prevail as a permanent proposition; somebody had to deal with the question. I know of nobody to deal with such companies as those which spread across State lines and control subsidiaries acting in different States of the Union except the Congress of the United States.

The able Senator from Delaware has just read a statement from the late Senator Walsh which would indicate that he entertained the view that these companies, simply investment companies, were not engaged in interstate commerce. With the profoundest respect for the late Senator Walsh, it seems to me that a company which owns 30 or 40 or even 5 or 6 subsidiary companies and affiliates, which subsidiary companies are operating in different States, and which this holding company must control by utilizing the means of transportation or the means of communication between the different States—a holding company which conducts the business, determines the policy, and directs the course of these different subsidiary companies, and does it through employing the channels either of the mail or of the telephone or of the telegraph—must necessarily be under the control of the National Congress, or under the control of nobody whatever. They would be in a "no man's land" if that were not true.

I recall that only last year a local commission in a New England State undertaking to deal with the question of rates called upon a holding company for facts and data by which the commission could be guided, and the holding company announced that it would not furnish the material, that it would not furnish the data, that it was not subject to the control of the State authority; and it was so held, and the State authority was deprived of the data which were necessary in order to enable it to conduct the business of the State properly. Somebody must have control of that company which refuses the command or the demand or the request of the State. I think probably the company was justified in refusing it from the standpoint purely of the constitutional question.

Mr. BARKLEY. Mr. President, will the Senator yield?

Mr. BORAH. I yield.

Mr. BARKLEY. As an example of what the Senator is discussing I referred the other day—and I do not know whether the Senator was in the Chamber at the time or not—to a case where a State had by its legislature provided that no outside corporation would be permitted to own more than 10 percent of the stock of a utility company operating within the State.

A holding company which desired to get control of business within a certain State, which I need not name, organized nine corporations in the State. One of them was the Mahogany Co., one was the Ashwood Co., one was the Sassafras Co., one was the Sycamore Co., and they went all through the woods to get names for these nine companies, and each one of the nine bought stock in the utility so as to evade entirely the provisions of the law in the State undertaking to protect itself against absentee ownership; and such instances may be multiplied by the hundreds.

Mr. BORAH. I recall the illustration which the Senator gave, and it was very relevant to the discussion.

Mr. President, I am not going further into the discussion of this matter; I simply wished to state my view in a general way as to this particular point. When we come to deal with the provisions of section 11, some questions may arise which may require further discussion.

Let us bear in mind that the most difficult problem which confronts us in the United States is that which arises out of the concentration of economic power. It is useless to talk about political liberty and political freedom if there is no economic liberty or economic freedom, and there can be no such thing as economic liberty or economic freedom where all the vast wealth and natural resources, and all that which contributes to the daily life of the individual, is under the control of a dozen or so, or even 2,000 or 2,500 people.

It is impossible to contemplate the future of the American citizen with any conception of freedom upon his part or of economic liberty upon his part under such conditions. It therefore becomes the duty of the Congress of the United States to exercise whatever power it has and whatever power it may command to the breaking down of that concentration of wealth, and particularly where that concentration of wealth leads to lawlessness such as has characterized the great holding companies of this country.

Mr. HASTINGS. Mr. President, will the Senator yield?

Mr. BORAH. I yield.

Mr. HASTINGS. Does the Senator contend that proceeding under the interstate-commerce clause of the Constitution is the only way in which that can be accomplished?

Mr. BORAH. No; I do not. We might use the taxing power very effectively; but I do not know of any reason why we should not also use the power under the interstate-commerce clause.

Mr. HASTINGS. Another question: Does the Senator contend that a holding company located in one State, with its offices in that State, which controls an operating company in another State, merely because it owns that company and is in communication with it through the mails and by telephone and otherwise, is engaged in interstate commerce?

Mr. BORAH. My contention is, to state it in my own way—and I think my view is reflected in the bill—that where a holding company owns and controls subsidiary companies in different States and directs the affairs and the course of conduct of those companies, utilizing the mails or utilizing the express companies or utilizing other means of communication or means of intercourse in order to effectuate its purpose, it is engaged in interstate commerce. John Marshall says commerce is intercourse, and through intercourse among the States the holding companies carry on their business.

Mr. LONG. Mr. President, as I understand the amendment of the Senator from Illinois—and I hope I will be corrected by the Senator from Illinois or by the Senator from Montana if I am wrong—it purports to take section 11, which provides that after a certain length of time holding companies are to pass out of existence, and to change that into some kind of regulation.

Mr. TYDINGS. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. TYDINGS. I desired to ask the Senator from Idaho a question before he sat down.

Mr. LONG. I have no objection.

Mr. TYDINGS. I ask the Senator from Idaho whether he contemplates offering an amendment to eliminate holding companies in the third or fourth degree? If he should do so, he would probably get some votes for an amendment of that kind which he might not get for a provision to eliminate all holding companies, as is provided in the bill.

Mr. BORAH. Mr. President, I have hesitated to offer amendments to the bill for the reason that I know the vast amount of work which has been put upon the bill by the committee and by the able chairman of the committee; but I had in mind, and I have so indicated in my pencil notes upon the bill, to offer an amendment which would do away with holding companies beyond the second degree.

Mr. TYDINGS. I thank the Senator, and I thank the Senator from Louisiana for yielding.

Mr. BARKLEY. Mr. President, will the Senator from Louisiana yield?

Mr. LONG. I have only 10 minutes; but I will yield for a moment.

Mr. BARKLEY. I wish to correct an impression which seems to prevail as a result of the Senator's question.

The bill does not eliminate all holding companies. It does not eliminate holding companies which operate utilities wholly within a State. It does not eliminate holding companies which have stock in or even control utilities operating in two or more States, if it is an integrated territory. So that it is not correct to say that this bill eliminates all holding companies. There are many of them which it does not eliminate.

Mr. WHEELER. Mr. President, will the Senator yield to me?

Mr. LONG. I will yield to the Senator a moment, but I will ask the Chair not to take the interruptions out of my time.

Mr. WHEELER. In addition to what the Senator from Kentucky has said, permit me to state that many Members of the Senate thought we ought to have gone much further than we did go, and eliminate all holding companies; but the bill does not do that at all.

Mr. LONG. Mr. President, the quarrel I have with the bill is that it did not stick to the original policy of eliminating all holding companies. What is the difference between holding companies, regardless of where they are? So far as I am concerned, they all ought to be eliminated.

The first holding company of any wide importance of which I ever had any knowledge was one I found referred to in fiction. A far more reasonable holding company was the old holding system of Fagin, about which we are told in Oliver Twist. He was a fence, a fraud. However, he was subjected to certain criminal provisions of the law.

A holding company is not a thing on God's earth but a scheme set up in order that frauds and devices and whatever we may call them less than that may be practiced with convenience, without running into the obstructions and inconveniences which natural and artificial laws have imposed to prevent devices which cheat people out of what they are entitled to have.

I am amazed at my friend from Illinois offering this amendment. I might have understood it if it had come from my innocent friend from West Virginia, or from my friend from Idaho, or even from my friend from Kentucky, but for a man who came from within a mile or two of the operations of the Insull enterprises to offer this amendment goes to show me that a burned child is not even afraid of fire. [Laughter.] It goes to show me that he wants to get right back into the fireplace and see just what it was that scorched his eyes.

The thing that sent the present junior Senator from Illinois to the Senate instead of his illustrious predecessor was the Democratic platform adopted in the Chicago convention, which declared that we were going to be through with the frauds of the Insulls and of men of that type, which had rendered helpless the investors to the extent, it was said, of one out of every three in the State.

I was told that one person out of every three of mature age in the entire State of Illinois had been burned prior to 1932 as the result of the Insull holding-company operations in the State of Illinois; so much so that people said they were afraid Mr. Insull could not even get a fair trial in that State, because nearly everybody had suffered as the result of his financial legerdemain.

What does the Senator from Illinois propose? Let me read what he proposes. He is a good lawyer. He was a judge on the bench, and is a very learned Member of this Chamber. Here is what he proposes:

After January 1, 1938—

This is in lieu of section 11:

After January 1, 1938, to require the corporate structure of the holding-company system of each registered holding company to be simplified to the extent that such corporate structure contains unnecessary complexities which are detrimental to the interests of investors, consumers, and the general public.

What does that mean? It does not mean anything. It means that we are going to strike out the only thing in this bill which does any good. It would take someone with Webster's Unabridged Dictionary sitting right at the elbow of the Senator from Illinois to enable him to know what he himself means by this Mother Hubbard amendment which he is now proposing. A Mother Hubbard, by the way, covers everything but touches nothing. [Laughter.] That is what the Senator does by this amendment which he proposes, instead of the provision that after a certain length of time these illegal combinations shall be put out of business.

Talk about regulating holding companies. We might as well try to regulate a rattlesnake. It would do just as much good. We might just as well pass a law here that a rattlesnake could not bite in the summertime as to pass a law that a holding company can exist for time after time, and continue any kind of practices, subject to any kind of regulation. We cannot regulate them. It is not possible to regulate them.

Talk about destroying investments. Who is it that destroyed the investments? They are here with the blood of Abel on their hands. They have raked down the fortunes of the little, the big, the young, and the old. Long before this holding-company bill ever came to Congress they had receivership after receivership, bankruptcy after bankruptcy. Why did they have them? For no other reason than that the Congress of the United States had not done its duty, because the Congress of the United States allowed them to carry on these various criminal enterprises; for no other reason under God's eternal sun than to avoid regulation by State or by interstate commissions. You could not find them with a straight level and a compass. To find the hide-and-seek scoundrels you would have to look for them all over the country. One time they were engaged in interstate commerce, and the next time they were engaged in intrastate commerce. You never could put your finger on them, and you cannot put your finger on them now.

They now have some of the rascals in the criminal courts. Every time we undertake to invoke one of the Federal statutes they claim that the transaction was an intrastate transaction, and when they are charged in the State courts they contend that the transaction was not an intrastate transaction but that it was an interstate transaction. They are so bold with it that they will go before commissions and courts of the State and say, "That part of our business which is interstate shows a very large profit, but that part of our business which is intrastate shows not so large a profit", knowing that through the delays caused by litigation of various kinds and through some kinds of processes they will avoid any sort of regulation which will stamp out these practices. We may find one way to keep them from doing it, but they can find some other way of doing it, and get around a regulation.

Talk about preserving business! Talk about being careful! Let us do no harm! We are likely to step on some legitimate practice! Oh, yes; old Fagin might have had some legitimate practice, but they hung him just the same, because 99.44 percent of his business, inside and out, was a criminal racketeering game. One may find some little practices of the holding company which are legitimate, but those are insignificant and infinitesimal.

The PRESIDING OFFICER (Mr. THOMAS of Utah in the chair). The time of the Senator from Louisiana has expired.

Mr. NEELY obtained the floor.

Mr. BONE. Mr. President, will the Senator yield?

The VICE PRESIDENT. Does the Senator from West Virginia yield to the Senator from Washington?

Mr. NEELY. Mr. President, by virtue of the unanimous-consent agreement under which we are proceeding, the Senate must vote on the pending amendment at the expiration of 7 minutes. Therefore, the Senator from Washington is respectfully requested to be as brief as possible.

Mr. BONE. I should like to ask the Chairman of the Committee on Interstate Commerce [Mr. WHEELER], who is in charge of this utility bill, in the event the amendment which is now pending should be adopted—which, if it happens, will result in complete destruction of the bill, as the very heart will come out of it—if he will accept an amendment which I will then tender to remove the tax exemption which corporations now enjoy under the corporation income tax?

Mr. NEELY. Mr. President, when the Lord was on his way to destroy Sodom and Gomorrah with fire and brimstone He visited Abraham in the plains of Mamre and informed him of the impending fate of the two most notorious seats of wickedness of the ancient world. The interest of Abraham in the few virtuous inhabitants of the doomed cities was instantly aroused, and he said to Jehovah, "Wilt Thou also destroy the righteous with the wicked * * * shall not the judge of all the earth do right?" After less debate than we have had in the Senate today, the Lord promised to spare Sodom, if as many as 10 of its inhabitants were found to be righteous.

Is it not high time for someone to inquire in this body whether we shall destroy the unoffending holding companies in order to annihilate those which have grievously sinned against the American people? Will not the Senate do justice to the innocent regardless of the manifold transgressions of the guilty?

Some of the utility-holding companies of the United States have flagrantly violated almost every law that man had made or decency has dictated. The offenses of these no self-respecting person would attempt to justify or condone. But hundreds of thousands of innocent American citizens have in good faith invested their money in the securities of utility-holding companies, the affairs of which have been conducted as honorably as those of the average corporation in other lines of endeavor. These investors should not be punished nor should the value of their investments be destroyed by the passage of the Wheeler bill in its present form.

Unquestionably the proprietors of a few holding companies ought to be in the penitentiary. But this fact affords no justification for the destruction of companies which, like some of those which operate in West Virginia, have habitually obeyed the law.

Mr. WHEELER. Mr. President, will the Senator yield?

Mr. NEELY. I will yield for a very brief question.

Mr. WHEELER. Will the Senator tell me of one holding company which is engaged in interstate commerce scattered all over this country which has not violated the provisions as set forth in this bill? Those are the only ones we are seeking to have eliminated.

Mr. NEELY. Mr. President, if time permitted, the Senator from West Virginia could name a number of utility-holding companies whose conduct compares favorably with that of any other class of corporations; whose stockholders ought not to be impoverished; whose investments ought not to be destroyed. The bill in its present form seeks to empower a commission to annihilate any holding company which it may determine is not geographically or economically integrated. If the history of this Government conclusively proves anything, it proves beyond the peradventure of a doubt that, as a rule, Federal commissions habitually wield all the power with which they are clothed. Consequently it may be safely assumed that if the bill, without the elimination of section 11, becomes the law, a commission will in the near future disintegrate a majority, if not all, of the utility-holding companies on the alleged ground that they are not geographically or economically integrated.

Mr. WHEELER. Mr. President, will the Senator yield?

Mr. NEELY. Mr. President, the rapid flight of my limited time compels me unwillingly to decline to yield. But let me digress to say that I unqualifiedly and enthusiastically concur in the glowing eulogies pronounced by the Senator from Kentucky [Mr. BARKLEY] and the Senator from Washington [Mr. BONE] on the renowned Senator from Montana [Mr. WHEELER], whom we all respect and love and to whom I regret that I cannot again yield. With unsurpassed intelligence, unremitting industry, and unfaltering fidelity to his task, he has, from his point of view, rendered the people and perhaps the utilities themselves a great and lasting service. From my heart I congratulate the people of Montana upon having the distinguished author of the pending bill as one of their representatives in the United States Senate.

Many of us consider it unfortunate that the bill, which contains so very many constructive and salutary provisions, should be marred by section 11—the object of which is destruction, and the effect of which, if approved, will be to empower the Commission to destroy every great utility-holding company in the country.

Mr. NORRIS. Mr. President——

The VICE PRESIDENT. Does the Senator from West Virginia yield to the Senator from Nebraska?

Mr. NEELY. Mr. President, I am sincerely sorry that I cannot yield even one of my few remaining moments to the eminent Senator from Nebraska.

Ever since the honor of a seat in the Congress was first bestowed upon me, I have sincerely believed it to be my duty as a public servant to act in conformity with the known wishes of my constituents and, so far as possible, to translate their desires into law.

Mr. LONG. Mr. President, will the Senator yield?

Mr. NEELY. Mr. President, I am sorry that the unusual limitation upon my time makes it impossible for me to yield to the Senator from Louisiana or to anyone else for any purpose.

Since the day that the Senator from Montana introduced the utility-holding company bill, my constituents have sent me a grand total of approximately 23,000 letters and telegrams, in which they have in no uncertain terms expressed their unfavorable opinion of the bill and their earnest desire concerning my vote be recorded against it.

It has not been possible for me to answer, or even to read, all of the thousands of letters which have come to my office relative to the Wheeler bill. The mountain of communications which now rests on the desk before me consists of a thousand letters and telegrams chosen at random. Any Member of the Senate is at liberty to inspect them. Three, and only three of these communications contain endorsements of the bill. The 997 others implore me to vote against the measure in its entirety unless the "death sentence" provisions of section 11 are eliminated.

Let me hastily read just one of these communications:

> You do not know me, but I am the widow of your Spanish-American War comrade ————. Upon his death he left me a few shares of stock in a utility-holding company on which I have received a small dividend four times a year. If section 11 of the Wheeler bill is passed my holding-company stock, which my husband innocently acquired and I innocently hold, will lose much or all of its value, and I shall lose the small income which has enabled me to escape the poorhouse during the last 5 years.

This letter is fairly representative of a vast number of others which are in the accumulation before me.

Upon the assumption that the thousand communications which compose my exhibit are typical of the 22,000 other letters and messages concerning the Wheeler bill which I have received, 69 of my constituents desire that the bill be passed, while 22,931 desire that it be defeated. In other words, it appears that among my constituents those who oppose section 11 of the bill outnumber those who favor it by more than 330 to 1.

If anyone argues that these letters are the result of propaganda which has been disseminated by the utility-holding companies, I shall reply that the motto of West Virginia proclaims the freedom of mountaineers, and assert that West Virginians harmonize their conduct with this motto, despise dictators, scorn dictation, and act upon their own initiative.

A score of independent, reputable, and representative daily newspapers are published in West Virginia. To the best of my information, all but three of these daily papers have, in most vigorous editorials, again and again disapproved the Wheeler bill and bitterly assailed section 11 on the ground that its translation into law would greatly injure thousands of people in West Virginia and millions of people in the United States.

The relevant and material evidence which has been supplied me by word of mouth, by letters, by telegrams, and through the columns of the unpurchasable press of the State compels me to believe that more than 95 percent of the people of West Virginia are unalterably and bitterly opposed to section 11 of the Wheeler bill. Therefore, duty compels me, as the representative of my constituents, to vote for the Dieterich amendment. Failure to eliminate section 11 with the Dieterich amendment, or some other equally effective instrumentality will compel me to vote against the entire measure. And in voting for the amendment and against the bill, if the amendment should be defeated, I shall be voting to conserve instead of destroy many of the great law-abiding enterprises of this country; I shall be voting to protect and preserve hundreds of millions of dollars which have been honestly invested in utility holding companies by innocent persons in every walk of life; I shall be voting to protect the wages and preserve the employment of everyone in the United States who is on the pay roll of a utility holding company.

About the middle of the last century the members of a faction of the Democratic Party in the State of New York earned the unenviable nickname of "barn burners." Let us so vote on the Dieterich amendment and on the Wheeler bill, if the amendment be defeated, that no one can justly stigmatize us as "barn-burning Senators; legislators of destruction or artificers of annihilation." Let us demonstrate today that the Senate stands for proper regulation and against improper ruination; that it is whole-heartedly for enlightened construction that will benefit and bless the race and against every proposal to destroy the honorable employment, the honest investments, and the cherished rights of the American people.

Mr. DIETERICH. I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Adams	Coolidge	Keyes	Pope
Ashurst	Copeland	King	Radcliffe
Austin	Costigan	La Follette	Reynolds
Bachman	Couzens	Lonergan	Russell
Bailey	Davis	Long	Schall
Bankhead	Dickinson	McAdoo	Schwellenbach
Barbour	Dieterich	McCarran	Sheppard
Barkley	Donahey	McGill	Shipstead
Black	Duffy	McKellar	Smith
Bone	Fletcher	McNary	Steiwer
Borah	Frazier	Maloney	Thomas, Okla.
Brown	George	Metcalf	Thomas, Utah
Bulkley	Gerry	Minton	Townsend
Bulow	Gibson	Moore	Trammell
Burke	Glass	Murphy	Tydings
Byrd	Gore	Murray	Vandenberg
Byrnes	Guffey	Neely	Van Nuys
Capper	Hale	Norbeck	Wagner
Caraway	Harrison	Norris	Walsh
Carey	Hastings	Nye	Wheeler
Chavez	Hatch	O'Mahoney	White
Clark	Hayden	Overton	
Connally	Johnson	Pittman	

The VICE PRESIDENT. Ninety Senators have answered to their names. A quorum is present. The question is on the amendment offered by the Senator from Illinois [Mr. DIETERICH].

Mr. WHEELER. I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. HAYDEN. Mr. President, I desire to offer a perfecting amendment.

The VICE PRESIDENT. Under the unanimous-consent agreement, the Senate is to vote on the amendments offered by the Senator from Illinois at 2 o'clock. They will come first, before any other Senator may be recognized to offer an amendment. The question is on agreeing to the amendment of the Senator from Illinois. On that question the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DAVIS (when his name was called). I have a general pair with the junior Senator from Kentucky [Mr. LOGAN]. I am informed that if he were present he would vote as I am about to vote. I therefore feel at liberty to vote, and vote "yea."

Mr. McNARY (when his name was called). On this vote I have a pair with the senior Senator from Arkansas [Mr. ROBINSON]. If he were present, he would vote "nay", and if I were permitted to vote I should vote "yea."

Mr. CLARK (when Mr. TRUMAN'S name was called). I desire to announce that my colleague [Mr. TRUMAN] is necessarily absent.

The roll call was concluded.

Mr. BARKLEY. I desire to announce that my colleague the junior Senator from Kentucky [Mr. LOGAN], the Senator from Arkansas [Mr. ROBINSON], and the Senator from Mississippi [Mr. BILBO] are necessarily absent from the Chamber.

Mr. DIETERICH. I wish to announce the necessary absence of my colleague the senior Senator from Illinois [Mr.

LEWIS]. I am informed that on this question he is paired with the junior Senator from Mississippi [Mr. BILBO]. If present, my colleague would vote "yea", and the Senator from Mississippi would vote "nay."

The result was announced—yeas 44, nays 45, as follows:

YEAS—44

Ashurst	Chavez	Glass	Radcliffe
Austin	Clark	Gore	Reynolds
Bachman	Coolidge	Hale	Schall
Bailey	Copeland	Hastings	Smith
Bankhead	Davis	Hayden	Steiwer
Barbour	Dickinson	Keyes	Thomas, Okla.
Bulkley	Dieterich	King	Townsend
Burke	Duffy	Lonergan	Tydings
Byrd	George	Metcalf	Vandenberg
Byrnes	Gerry	Moore	Walsh
Carey	Gibson	Neely	White

NAYS—45

Adams	Donahey	McKellar	Russell
Barkley	Fletcher	Maloney	Schwellenbach
Black	Frazier	Minton	Sheppard
Bone	Guffey	Murphy	Shipstead
Borah	Harrison	Murray	Thomas, Utah
Brown	Hatch	Norbeck	Trammell
Bulow	Johnson	Norris	Van Nuys
Capper	La Follette	Nye	Wagner
Caraway	Long	O'Mahoney	Wheeler
Connally	McAdoo	Overton	
Costigan	McCarran	Pittman	
Couzens	McGill	Pope	

NOT VOTING—6

Bilbo	Logan	Robinson	Truman
Lewis	McNary		

So Mr. DIETERICH's amendment was rejected.

The VICE PRESIDENT. The clerk will report the next amendment offered by the Senator from Illinois.

Mr. DIETERICH. Mr. President, the other amendments constitute a series of amendments directed to the same objective, to take this particular phraseology out of the bill. In view of the vote just taken it is not necessary to consume the time of the Senate on the other amendments and therefore I withdraw them.

The VICE PRESIDENT. The Senator from Illinois withdraws the amendments.

Mr. PITTMAN. Mr. President, in section 210 there is a provision amending section 23 of the Federal Power Act, which would prevent a State or municipality from utilizing water and power at a Government dam without permission of the Federal Power Commission. That permission has already been granted in an act of Congress. The amendment would veto the grant already made to the States. I offer an amendment for the purpose of clarifying the language.

The VICE PRESIDENT. The clerk will state the amendment.

The CHIEF CLERK. On page 113, line 25, in section 210, amending section 23 of the Federal Power Act, as amended, after the word "act", it is proposed to strike out the period and insert a colon and the following:

Provided, That States or other municipalities granted certain rights and privileges under the Boulder Canyon Project Act and contracts executed thereunder relative to the use of water impounded by such project and the generation of hydroelectric power upon such project are hereby granted a license to construct, operate, and maintain any water conduit, reservoir, power lines, or other works across or along the navigable waters of the United States, or upon any part of the public lands or reservations of the United States for the purpose of utilizing said water or water power. A similar license is hereby granted to any State or other municipality with reference to any Government dam heretofore or hereafter constructed under act of Congress where States or other municipalities are granted the right to utilize the waters or water power generated at such dam. This license shall extend to all municipalities, corporations, or individuals acting for, under, and by authority of such State or other municipality in the premises.

Mr. WHEELER. Mr. President, I am familiar with the amendment and it is entirely satisfactory to me. It clarifies the bill with reference to Boulder Dam.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Nevada.

The amendment was agreed to.

Mr. PITTMAN. Mr. President, there are two other amendments at different places now necessary to carry into effect the amendment just adopted. I offer the amendment which I send to the desk.

The VICE PRESIDENT. The clerk will state the amendment.

The CHIEF CLERK. On page 114, line 11, after the word "be", it is proposed to insert the word "directly", and after the word "affected" insert the words "or burdened"; and in line 17, after the word "are", insert the word "injuriously", so as to make the paragraph read:

Any person, association, corporation, State, or municipality intending to construct a dam or other project works across, along, over, or in any stream or part thereof, other than those defined herein as navigable waters, and over which Congress has jurisdiction under its authority to regulate commerce between foreign nations and among the several States shall before such construction file declaration of such intention with the Commission, whereupon the Commission shall cause immediate investigation of such proposed construction to be made, and if upon investigation it shall find that the interest of interstate or foreign commerce would be affected or burdened by such proposed construction, such person, association, corporation, State, or municipality shall not construct, maintain, or operate such dam or other project works until it shall have applied for and shall have received a license under the provisions of this act. If the Commission shall not so find, and if no public lands or reservations are injuriously affected, permission is hereby granted to construct such dam or other project works in such stream upon compliance with State laws.

The VICE PRESIDENT. Without objection, the amendment is agreed to. The next amendment of the Senator from Nevada will be stated.

The CHIEF CLERK. It is proposed on page 114, line 20, after the period, to insert the following:

If the applicant is a State and the Commission shall not find that such proposed construction does directly affect or burden interstate commerce, permission is hereby granted said State to use the public lands and reservations within such State to the extent that may be necessary to such project and in a manner that will not be materially injurious to such public lands and reservations.

The VICE PRESIDENT. Without objection, the amendment is agreed to.

Mr. McKELLAR. Mr. President, I ask the attention of the Senator from Montana. On page 48 and again on page 51 it is necessary to have the same amendment inserted that was agreed to yesterday on page 52. The words "shall have power and at the request of the commisison it shall be the duty of the court to" should be stricken out and the word "may" substituted. Accordingly, on page 48, in lines 22 and 23, I move to strike out the words "shall have power and it shall be the duty of the court to" and insert in lieu thereof the word "may."

Mr. WHEELER. Mr. President, I have no objection to the amendment, provided there shall be added the same language that was added in connection with the other amendment; that is, after the word "appointed", in line 20, insert the words:

And in any such proceeding the court shall not appoint any person other than the commission, trustee, or receiver without notifying the commission and giving it an opportunity to be heard before making any such appointment.

Mr. McKELLAR. That would be entirely satisfactory, but I think it should be treated as a separate amendment and added afterward.

Mr. WHEELER. I thought the Senator could include it in his suggested amendment.

The VICE PRESIDENT. It is impossible under present conditions for the clerk to report the amendments. Will the Senator from Tennessee state where his amendment is to be inserted?

Mr. McKELLAR. Let us dispose of my amendment first and then consider the amendment of the Senator from Montana.

The first amendment which I have offered is, on page 46, line 12, to strike out the words "shall have the power, and it shall be the duty of the court, to" and insert the word "may."

The VICE PRESIDENT. The clerk will state the amendment.

The CHIEF CLERK. On page 46, in line 12, it is proposed to strike out the words "shall have the power, and it shall

be the duty of the court, to" and insert the word "may", so the sentence would read:

Upon any such application, the court as a court of equity shall take exclusive jurisdiction and possession, for the purposes of this title, of such assets of the company or companies, wherever located, as may be the subject of such order, or, in the case of any order for reorganization or dissolution, exclusive jurisdiction and possession, for the purposes of this title, of the company or companies and all the assets thereof, wherever located; and the court shall have jurisdiction to appoint a trustee, and the court may constitute and appoint the Commission as sole trustee, to administer under the direction of the court the assets so possessed and the proceeds thereof as a trust estate for the benefit of the persons interested therein as their interests may appear.

The VICE PRESIDENT. Without objection, the amendment is agreed to.

Mr. McKELLAR. On page 48, in line 21, after the word "court", I move to strike out the words "shall have the power, and it shall be the duty of the court, to" and to insert in lieu thereof the word "may."

The VICE PRESIDENT. The amendment will be stated.

The CHIEF CLERK. On page 48, line 21, after the word "court", the Senator from Tennessee proposes to strike out the words "shall have the power, and it shall be the duty of the court, to" and to insert in lieu thereof the word "may", so the sentence would read:

And the court shall have jurisdiction to appoint a trustee, and the court may constitute and appoint the Commission as sole trustee, to administer, under the direction of the court and in accordance with the plan theretofore approved by the court and the Commission, the assets so possessed and the proceeds thereof as a trust estate for the benefit of the persons interested therein as their interets may appear.

The VICE PRESIDENT. Without objection, the amendment is agreed to.

Mr. WHEELER. Mr. President, in view of that amendment I should like to insert, after the word "appear", on page 49, line 3, this language:

And in any such proceeding the court shall not appoint any person other than the Commission trustee or receiver without notifying the Commission and giving it an opportunity to be heard before making any such appointment.

The VICE PRESIDENT. The Senator from Montana offers an amendment which will be stated.

The CHIEF CLERK. On page 49, line 3, after the word "appear", it is proposed to insert:

And in any such proceeding the court shall not appoint any person other than the Commission trustee or receiver without notifying the Commission and giving it an opportunity to be heard before making any such appointment.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Montana.

The amendment was agreed to.

Mr. WAGNER. Mr. President, I should like to make an inquiry of the Senator from Montana.

The other day I submitted to the Senator a proposed amendment to make somewhat more flexible the provision with reference to exempting holding companies doing, predominantly, an interstate business.

Mr. WHEELER. Let me say to the Senator from New York that after we discussed that amendment, and worked it out, I was waiting for him to be present. He was not here at the time the bill originally came up. I therefore offered the amendment for him, and called attention, I think, to the fact that he was not here. That amendment has been taken care of.

Mr. WAGNER. I thank the Senator very much.

Mr. DICKINSON. Mr. President, I offer the amendment which I send to the desk.

The VICE PRESIDENT. The amendment will be stated.

The CHIEF CLERK. In subsection (a) of section 11, line 19, page 43, it is proposed to insert the words "public utility" after the words "and the" and before the words "properties and."

Mr. BARKLEY. How will that read?

Mr. WHEELER. I did not catch the amendment.

Mr. DICKINSON. I suggest that in order to have these amendments understood the second amendment should be read, because one is not necessary without the other.

Mr. WHEELER. Has the Senator a copy of his amendment there?

Mr. DICKINSON. The clerk has the only copy I have. I will say that the purpose of this amendment is to enable a public-utility company which has acquired some other property in other lines of business, to dispose of that property as it sees fit, and not be forced, under the requirements of this bill, to dispose of it as it disposes of other types of property it has acquired.

Mr. WHEELER. Let me say to the Senator from Iowa that that matter has already been taken care of in an amendment which was offered on yesterday by the Senator from Indiana [Mr. MINTON] and adopted. This very matter has been taken care of.

Mr. DICKINSON. Very well. I was not here at the time.

The VICE PRESIDENT. Does the Senator from Iowa withdraw his amendment?

Mr. DICKINSON. I withdraw the amendment.

Mr. O'MAHONEY. Mr. President, I offer the three amendments, which I send to the desk.

The VICE PRESIDENT. The amendments will be stated.

The CHIEF CLERK. On page 105, line 23, after the word "shall", it is proposed to insert:

Subject to the approval of the Secretary of the Interior in the case of such dams or structures in reclamation projects, and, in the case of such tribal lands, subject to the approval of the Indian tribe having jurisdiction of such lands, as provided in section 16 of the act of June 18, 1934.

Mr. WHEELER. I have no objection to the amendment. As a matter of fact, I am in favor of it.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Wyoming.

The amendment was agreed to.

The CHIEF CLERK. Also, on page 105, line 24, after the word "may", it is proposed to insert the words "with like approval."

Mr. WHEELER. That is entirely satisfactory.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Wyoming.

The amendment was agreed to.

The CHIEF CLERK. On page 113, lines 21 and 22——

Mr. NORBECK. Mr. President——

The VICE PRESIDENT. Does the Senator object to the adoption of the amendment?

Mr. NORBECK. No; but we have passed page 103, and I desire to offer an amendment on that page.

The VICE PRESIDENT. The bill is not being read page by page. The Senator can offer an amendment to any portion of the bill when he obtains recognition.

The CHIEF CLERK. On page 113, lines 21 and 22, it is proposed by Mr. O'MAHONEY to strike out "for the purpose of utilizing" and insert in lieu thereof the words "to utilize."

Mr. WHEELER. Mr. President, let me ask the Senator from Wyoming whether this is an amendment which he worked out with the general counsel of the Power Commission.

Mr. O'MAHONEY. Yes; these are the amendments which were discussed with the counsel of the Power Commission, and we are in perfect agreement on them.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Wyoming.

The amendment was agreed to.

Mr. NORBECK. Mr. President, I offer the amendment which I send to the desk.

The VICE PRESIDENT. The Senator from South Dakota offers an amendment, which will be stated.

The CHIEF CLERK. On page 103, line 16, after the word "including", it is proposed to insert the word "scenic"; and on page 103, line 17, after the letters "tional", it is proposed to insert a comma and the words "archeological and wildlife."

Mr. CLARK. Mr. President, I should like to find out what the amendment is.

Mr. WHEELER. Will the Senator please explain his amendment?

Mr. NORBECK. The amendment was sent to me by the Izaak Walton League, who are hoping that in these projects

some consideration may be given to scenic situations, to archeological and to wildlife protection. It is really a suggestion they have incorporated in their plan so far as they can. This particular section is an amendment to the Water Power Act, as I understand.

Mr. WHEELER. This is an amendment to section 10, providing that—

All licenses issued under this part shall be on the following conditions:

(a) That the project adopted, including the maps, plans, and specifications, shall be such as in the judgment of the Commission will be best adapted to a comprehensive scheme for improving or developing a waterway or waterways for the use or benefit of interstate or foreign commerce, for the improvement and utilization of water-power development, and for other beneficial public uses, including recreational purposes; and if necessary in order to secure such scheme the Commission shall have authority to require the modification of any project and of the plans and specifications of the project works before approval.

I have not any objection to the amendment.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from South Dakota.

The amendment was agreed to.

Mr. ADAMS. Mr. President, I send to the desk three amendments which I offer to page 102 of the bill as originally reported.

The VICE PRESIDENT. The Chair understands that the copy of the bill to which the Senator refers, the copy as originally reported, is the one which the clerks are using. The amendments will be stated.

The CHIEF CLERK. On page 102, line 22, it is proposed to strike out "water" and insert "water-power."

Mr. ADAMS. Mr. President, that matter has been taken up with the attorneys for the Commission, and they have approved that and the two succeeding amendments. It applies the control given under the bill to water power, and not to water resources generally. It puts that limitation upon the bill.

Mr. WHEELER. Mr. President this is the amendment about which the Senator spoke to me yesterday and which he took up with the attorneys for the Commission?

Mr. ADAMS. Yes sir; and I have two other amendments of similar effect.

Mr. WHEELER. I have not any objection.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Colorado.

The amendment was agreed to.

The CHIEF CLERK. It is proposed to make the same amendment on page 102, line 14.

The VICE PRESIDENT. Without objection, the amendment is agreed to.

The CHIEF CLERK. It is proposed to make the same amendment on page 102, line 18.

The VICE PRESIDENT. Without objection, the amendment is agreed to.

Mr. ADAMS. Mr. President, I offer a further amendment which I send to the desk and ask to have stated.

The VICE PRESIDENT. The amendment will be stated.

The CHIEF CLERK. On page 100, line 13, after the word "occupy", it is proposed to insert the words "for the purpose of developing electric power."

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Colorado.

The amendment was agreed to.

The CHIEF CLERK. On page 100, line 20, it is proposed by Mr. ADAMS to strike out the words "water, and power" and to insert in lieu thereof "and water-power."

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Colorado.

The amendment was agreed to.

Mr. CLARK. Mr. President, I send to the desk two amendments, and ask unanimous consent that they may be considered as one, for the reason that they seek to accomplish one purpose.

The VICE PRESIDENT. The amendments will be stated.

The CHIEF CLERK. On page 6, it is proposed to strike out all of subsection (4) of section 2, beginning with line 17, down to and including line 22, and to insert in lieu thereof the following:

"Gas utility company" means any company which owns or operates facilities for the production, transportation, or distribution of natural or manufactured gas, and which transports, distributes, sells, or furnishes such gas for light, heat, or power, for a charge; but does not mean a company whose gas business is confined solely to the production, transportation, sale, or distribution of gas in enclosed portable containers.

Also, on page 18, strike out the letter "(A)" in line 9; also, strike out all of subsection (3) following the word "company" in line 13.

Mr. CLARK. Mr. President, these two amendments, which I have asked to have considered as one, are offered for the purpose of removing from the bill one of the most remarkable jokers that has ever fallen within my observation during my legislative experience.

I mention the subject at this time particularly because the employment of such methods as have been employed in the draftsmanship of the change in the bill which I now seek to remove are sufficient to cause anyone to have very serious distrust of the draftsmanship of the whole bill.

Mr. WHEELER. Mr. President, so that there may not be any question about the matter, I desire to say that if there is any joker in the bill with reference to this matter, the responsibility for it is not on the draftsmanship of the bill; it rests solely upon my shoulders. There is no joker in it, however. I have explained the matter to the Senator. The language he uses is extremely unfair to me, because no joker was intended, and the language to which he objects was put in only after conference with myself. If anybody is responsible for it, I am solely responsible.

Mr. CLARK. I do not wish to reflect on the motives or the methods of the Senator from Montana; but I do desire to say that in a bill of this sort, in a bill with such complications—apparently deliberate complications—extending over 154 pages, to change from the original draft as the bill was reported to the Senate in two or three places in such a way as to remove from the operation of the bill the Standard Oil Co. of New Jersey, and the Koppers Co., and possibly two or three minor companies does not seem to me good legislative practice.

This is the situation. Senate bill 1725 as it was originally reported defined a gas utility company in the following language:

"Gas utility company" means any company which owns or operates facilities for the production, transportation—

Note the word "transportation"—

or distribution of natural or manufactured gas, and which transports, distributes, sells, or furnishes such gas for light, heat, or power for a charge; but does not mean a company whose gas business is confined solely to the production, transportation, sale, or distribution of gas in enclosed portable containers.

Mr. LONG. Mr. President, will the Senator yield?

Mr. CLARK. I yield.

Mr. LONG. What the Senator is trying to do is to write these companies into the bill?

Mr. CLARK. Yes; I intend to put the companies back in the language of the original bill. I also intend to expose the joker, as I consider it, in the redrafting of the bill.

Of course, Mr. President, the last proviso, "but does not mean a company whose gas business is confined solely to the production, transportation, sale, or distribution of gas in enclosed portable containers", was obviously inserted in the bill for the purpose of excluding the Skelly Oil Co. and the Pintsch Co.

Mr. WHEELER. Mr. President, I never heard of the Skelly Oil Co.

Mr. CLARK. I asked the question of the two experts who drafted the bill, Mr. Cochran and Mr. Cohen, and received an affirmative response.

Mr. WHEELER. Let me say that the Senator is making statements on the floor of the Senate with reference to the bill that are absolutely not so, because witnesses came before the committee and testified that this bill took in some manufacturing interests and some people who merely manu-

factured gas incidentally to their business, and that we could not regulate——

Mr. CLARK. Mr. President——

Mr. WHEELER. Just let me finish.

Mr. CLARK. Let me finish; I have the floor.

I did not desire to object to the exclusion of these companies. What I did object to was the change from the original draft to the language of the next draft, Senate bill 2796. That defines a gas utility company as "any company which owns or operates facilities for the distribution at retail of natural or manufactured gas, or which for a charge distributes natural or manufactured gas at retail for light, heat, or power; but does not mean a company which distributes gas only in enclosed portable containers."

The difference between the bill as originally reported and the bill before us is that pipe-line companies are left out.

Mr. BARKLEY. Mr. President, will the Senator yield?

Mr. CLARK. I yield.

Mr. BARKLEY. Pipe-line companies have been regarded more or less as common carriers, especially those engaged in interstate transportation of oil and gas.

Mr. LONG. No; they have not.

Mr. BARKLEY. Is the Senator seeking now to include all of the pipe-line companies?

Mr. CLARK. Yes; I think pipe-line companies should be included. I think the holding companies which have to do with pipe lines are probably the most vicious form of holding companies that can be devised.

Mr. President, that did not happen by chance. It is carried through the whole progress of the bill. In the original bill it was said:

"Public-utility company" means an electric utility company and/or a gas utility company.

In Senate bill 2796 the definition is as follows:

"Public-utility company" means an electric utility company or a gas utility company.

In the original bill the definition of a holding company was as follows:

(7) "holding company" means (A) any company which, either alone or in conjunction and pursuant to an arrangement or understanding with one or more other persons, directly or indirectly, controls a public-utility company, whether such control is exercised through one or more intermediary persons or by any means or device whatsoever; (B) any intermediary company through which such control is exercised; and (C) any person or persons which the Commission determines, after notice and opportunity for hearing, to exercise such a material influence over the management or policies of any public-utility or holding company as to make it necessary or appropriate in the public interest or for the protection of investors or consumers that such person or persons should be deemed a holding company or companies for the purposes of this act.

In the new bill the definition of a holding company is altered to correspond to the changed definition of a gas utility company which I have heretofore pointed out.

Then we come down to the last portion, in section 3, the exemptions. I think there is no justification for the principle of exemptions in the bill at all. To allow a Federal commission to say to one, "You go", and he goeth, and to another, "You stay", and he stayeth, I think is without justification under any consideration.

Mr. WHEELER. The Senator just voted——

Mr. CLARK. Mr. President, I have the floor, I believe. In the section as to exemptions it is provided:

The Commission, by rules and regulations or order, shall exempt any holding company, and every subsidiary company thereof as such, from any provision or provisions of this title, if and to the extent that it deems the exemption not detrimental to the public interest or the interest of investors or consumers.

The first two grounds for exemption are immaterial, but as to the third ground I have to go back to the change in the definition of "gas utility company", which was inserted for the purpose of leaving out the pipe-line companies which operate actual utilities. I shall presently show the particular importance of this language.

Mr. LONG. Mr. President, will the Senator yield? I am with him a hundred percent.

Mr. CLARK. If the Senator will wait, I shall appreciate it. My time is limited.

Mr. LONG. Let me say just one word.

Mr. CLARK. Very well.

Mr. LONG. The whole thing is that they have actually left out the holding companies which control the selling of natural gas.

Mr. CLARK. In a very peculiar way, as I shall point out in just a moment.

The third ground of exemption is this: The company shall be exempt if—

Such holding company is only incidentally a holding company, being primarily engaged or interested in one or more businesses other than the business of a public-utility company and (A) not deriving, directly or indirectly, any material part of its income from any one or more subsidiary companies, the principal business of which is that of a public-utility company, or (B) deriving a material part of its income from any one or more such subsidiary companies, if substantially all the outstanding securities of such companies are owned, directly or indirectly, by such holding company.

Mr. President, let us see the application of this change in two or three places in the bill between the bill originally reported by the committee and the bill now before the Senate.

The VICE PRESIDENT. The Senator's time on the amendment has expired.

Mr. CLARK. I will take my time on the bill.

Mr. WHEELER. Mr. President——

Mr. CLARK. I am glad to yield for a question.

Mr. WHEELER. Never mind.

Mr. CLARK. The Standard Oil Co. of New Jersey owns the major portion of the interest in a gas pipe-line company transporting gas from Amarillo, Tex., to Denver and various other cities in Colorado. It does not own any interest in any distributing company in any of these cities, so far as I am advised, but it wholesales gas and necessarily to that extent controls the gas situation and the companies in all those cities.

The Standard Oil Co. of New Jersey owns a very large interest—I think, 25 percent, to be exact—in a gas pipe line from Amarillo, Tex., to Chicago. It sells gas at wholesale to the Chicago Gas Co. and to other gas companies along the line, and to that extent necessarily controls the price of gas; but it does not own the operating companies.

This company owns a pipe line from a point in West Virginia to points in Ohio, and actually operates the Cleveland Gas Co., owns all the stock in the Cleveland Gas Co., and owns so large a proportion of the stock in other gas companies in Ohio that their control is nearly absolute. The company itself owns the distribution system in Cleveland.

The company owns all the securities of the distributing company in Cleveland, Ohio, one of the largest cities in the country, and of the other two or more distributing companies in Ohio to which they supply gas through their pipe lines they own so nearly all the stock that it would be very simple for a company of its banking facilities to go out and acquire the stock in the market, and therefore to come within this exemption.

I inquired when these changes were called to my attention whether any other company in the country would come in under this exemption—in other words, whether a hole had been made for any other company in the entire United States to get out of except the Standard Oil Co. of New Jersey—and I was informed by the draftsmen of the bill that the Koppers Co. also came out through that exemption.

I was not familiar with the Koppers Co. at that time, and I am not now very familiar with their business, except that I have discovered since I began this study that the Koppers Co. is the great holding company of the Mellon family, which controls, among other things, the Koppers Co. of Pennsylvania, an operating company; the Koppers Construction Co.; the Koppers Building Co., Inc.; the Koppers Gas & Coke Co., and a number of other corporations set out in Moody's Manual, and that three members of the Mellon family are members of the board of directors.

When I called this matter to the attention of the chairman of the committee he assumed the responsibility for it. But it does seem to me that if a change of this sort, under which pipe-line companies, particularly pipe-line companies of a particular character, which only apply to apparently two companies in the whole United States, are to be exempted, the matter ought to be called to the attention of the Senate, and in view of the complexities of the bill, as I said a while ago, this causes me to have great distrust of the draftsmanship of the whole bill.

Now I yield to the Senator from Montana.

Mr. WHEELER. I will take the floor in my own time, when the Senator concludes.

Mr. LONG. Mr. President, I do not know whether my motives are the same as those of the Senator from Missouri in this matter or not.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. CLARK. I would never care to have it said that my motives were necessarily the same as those of the Senator from Louisiana. [Laughter.]

Mr. LONG. I thank the Senator for that. I wish to explain what I meant by my statement, so the Senator from Missouri and the Senator from Montana particularly will understand. I am very much in favor of this holding-company bill. I believe that the holding company aimed at by the bill is a fraud; but, along the lines the Senator from Missouri [Mr. CLARK] has indicated, we find we have probably as big if not a bigger fraud than in the electrical utility distributing line. I have had some experience with this matter. The natural-gas market is controlled by the transportation lines generally dominated by the Prairie Oil & Gas Co. and the Standard Oil Co. and the Ohio Pipe Lines. They not only control the natural-gas market but they control the artificial-gas market. The rate-making agencies of this country, which are fixing the prices on natural gas and on artificial gas, I said in an opinion which I delivered about 14 years ago, are very nominal functionaries, because the basic materials and the main commodities have absolutely no regulation whatever over them, but the prices are fixed as the companies see fit to make them, either through the transportation lines or through those furnishing the commodities. I understand there are no particular objections to including those organizations in the provisions of the bill. I do not know how the Senator from Montana feels about it but I think the Senate ought to accept the amendments of the Senator from Missouri.

I now come to the motive. It may be that the Senator from Missouri feels that the more provisions we put in the bill the harder it will be to pass the bill. I do not think so. I think we ought to meet this issue now. There is not any justification for leaving out gas pipe lines. They ought to have been included in the law. The oil outfit also should have been included; but at least, if the original committee draft is sustained, it will enable us to have some kind of protection in the matter of the price of natural and artificial gas.

Let me give an illustration. In Monroe, La., natural gas is sold for 2 to 3 cents a thousand cubic feet. The same gas, Mr. President, is sold in Baton Rouge, La., for 75 cents per thousand cubic feet, a difference of 72 cents. Why is there this difference down there? We undertook to provide some regulations. We sent to New York and got the finest public-utility consultants there were in the United States, and they said to us, "It is absolutely impossible to regulate them, because they will charge just so much at the well, or just so much at the pipe line, or just so much at the distributing system, and they will find one, two, or three points where no regulation is possible unless you break them up entirely as holding companies."

Therefore, when I went before the committee to discuss this bill and said that there were not enough fangs in the bill by which to some extent, however remote, we might control the oil companies engaged in the business either of transporting or manufacturing natural or artificial gas, I thought as it was then proposed to frame the bill it would enable us to some extent to protect ourselves; but as the bill was reported out of the committee everything except the distributing company has been eliminated. The holding company is not covered by the bill unless it is an actual gas-distributing company. That is where Senators are in the dark on it.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. CLARK. The holding company is not even covered if the holding company happens to own all the stock of the operating company, as the Standard Oil Co. of New Jersey owns all the stock of the Cleveland Gas Co.

Mr. LONG. That is the same thing. All the stock of the Standard Pipe Line Co. is owned by the Standard Oil Co. of Louisiana, and all the stock of the Standard Oil Co. of Louisiana is owned by the Standard Oil Co. of New Jersey, and the Standard Oil Co. of New Jersey also owns the Prairie Gas & Pipe Line Co. Therefore, there is no regulation whatever of them; and, as the Senator has pointed out, in the city of Cleveland, where they own all the distributing system, there is no regulation whatever, even down to the distributing company, even though the distributing company be a holding company.

I think this amendment ought to be accepted.

I do not think the inclusion of the provisions referred to will cause the bill to be defeated if the administration is behind the bill and wants it passed; but some reason ought to be given why we are exempting the Standard Oil Co. from the bill. They are the main offender in my State. They are a worse offender than any power company has ever been. Why exempt the Standard Oil Co.? Why exempt the Prairie Pipe Line Co.? Why exempt them? We may not know what the electric-light company is. We may not be willing to accept the result of the Federal Trade Commission's ex parte investigation and its ex parte report. However, we do not have to accept the word of the Federal Trade Commission or the Gas and Oil Trust. We do not have to accept a gas company report. We have the report of the United States Supreme Court in Two Hundred and Thirty-fourth United States Reports, which tells us that this is an interwoven monopoly and combination for evil purposes and for evil designs.

This provision ought to go into the bill.

Mr. WHEELER. Mr. President, as I said a moment ago, the reflections which were cast upon Mr. Cohen and Mr. Corcoran are entirely unwarranted.

Mr. McKELLAR. Mr. President, will the Senator yield?

Mr. WHEELER. I yield.

Mr. McKELLAR. Of course, I accept what the Senator says about the matter, and I know the Senator too well to think he would be a party to any such thing as has been suggested. However, aside from all that, I believe these two companies should not be exempted by the bill; and I desire to urge the Chairman of the Committee on Interstate Commerce to let the original provisions go back into the bill. I believe it would be better for the bill, and it would make it a better bill if those provisions were in it.

Mr. BARKLEY. Mr. President, will the Senator from Tennessee allow the Senator from Montana to explain why the change was made?

Mr. WHEELER. Mr. President, when the Senator from Missouri came to see me and asked me if I had any objection to the provisions in question, I told him they were taken out of the bill but that, so far as I was concerned, they could be put back.

Mr. McKELLAR. I am glad to hear it. I thank the Senator.

Mr. WHEELER. Mr. President, there is no justification whatever for the Senator from Missouri in making the statement he made casting reflections on either of the two young men.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. WHEELER. No, Mr. President; I will not yield. I simply wish to say that it is exceedingly unfair for the Senator, when he had the facts, to say that the drafters of this bill had tried to put a joker in it. Senators know, as I

know, who were behind the opposition to the bill. I knew that the power lobby were going to be here, and that they were going to resort to every kind of tactics it was possible to resort to in order to kill the bill if it was possible to do so in any way, shape, or form.

I have not resorted to personalities in this matter at all. In discussing the bill I have tried to keep the discussion free from personalities, and I intend to continue to do so. However, I wish to say that if personalities are to be discussed, I also can discuss them. I have no desire to do so. I simply said to the Senator from Missouri that I was willing to accept the provisions and put them back in the bill.

Mr. President, in this bill we were seeking to regulate holding companies engaged in the electric utility business and in the gas business. It was pointed out to us by different Senators that in some instances we took in manufacturing concerns which sold only to local communities, and that they should not be covered by the provisions of the bill. They were not the ones we were seeking to reach. We were seeking to reach only those who were engaged in the utility business in interstate commerce. Of course, I know perfectly well that the propaganda went out that we were relieving certain companies which should be included. I knew that this discussion would come up on the floor. I knew we would be criticized, because the utilities did not want any exemption to any manufacturing concern in the country. They went to every manufacturing concern in the United States that sold anything to the utilities, and tried to frighten them, and to get them to come down here with their propaganda. They went to every concern that in the slightest way could conceivably be economically affected by the bill, and they said to it, "You are going to be affected, and you must jump into the fight to help us defeat the bill." That has gone on from one end of the country to the other. I congratulate them on the effective job they did, because never in the history of the United States has an outfit carried on so successfully so much propaganda as this group has carried on with reference to this particular bill.

In conclusion, I will say that I have no objection to these amendments being written into the bill, but I do resent anyone saying anything about the drafters of the bill to the effect that they put a "joker" in it, because it was not so, and it is not so. It was only after hearings before the committee that the provisions in question were taken out of the bill. So far as the Standard Oil Co. or anyone else is concerned, the only testimony that was given was given before the committee itself.

The PRESIDENT pro tempore. The question is on agreeing to the amendment offered by the Senator from Missouri [Mr. CLARK].

The amendment was agreed to.

Mr. LONERGAN. Mr. President, I offer the amendment, which I send to the desk, and ask to have stated.

Mr. HATCH. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Adams	Coolidge	Keyes	Pope
Ashurst	Copeland	King	Radcliffe
Austin	Costigan	La Follette	Reynolds
Bachman	Couzens	Lonergan	Russell
Bailey	Davis	Long	Schall
Bankhead	Dickinson	McAdoo	Schwellenbach
Barbour	Dieterich	McCarran	Sheppard
Barkley	Donahey	McGill	Shipstead
Black	Duffy	McKellar	Smith
Bone	Fletcher	McNary	Steiwer
Borah	Frazier	Maloney	Thomas, Okla.
Brown	George	Metcalf	Thomas, Utah
Bulkley	Gerry	Minton	Townsend
Bulow	Gibson	Moore	Trammell
Burke	Glass	Murphy	Tydings
Byrd	Gore	Murray	Vandenberg
Byrnes	Guffey	Neely	Van Nuys
Capper	Hale	Norbeck	Wagner
Caraway	Harrison	Norris	Walsh
Carey	Hastings	Nye	Wheeler
Chavez	Hatch	O'Mahoney	White
Clark	Hayden	Overton	
Connally	Johnson	Pittman	

The PRESIDENT pro tempore. Ninety Senators have answered to their names. A quorum is present. The clerk will state the amendment proposed by the Senator from Connecticut [Mr. LONERGAN].

The CHIEF CLERK. On page 43, it is proposed to strike out lines 23 and 24 and in lieu thereof to insert the following:

It shall be the duty of the Commission, if, after complaint, notice, and hearing, it is found that any registered holding company or any subsidiary thereof is engaged in practices that are detrimental to the public interest, it shall after notice and opportunity for hearing order——

Mr. LONERGAN. Mr. President, there appears to me to be an element of fundamental unfairness in the proposed operation of section 11 of the pending bill. Its provisions are most sweeping and peremptory in direction and in their delegation of power to the Federal Securities and Exchange Commission to require within the time limit each company not exempted by the bill from the classification as a holding company, either to divest itself of its stock or property, or to reorganize or dissolve, or to make such holding company cease to be a holding company, and upon failure to effectuate such procedure within the time limit the Commission will take charge of the company and bring about the divestiture sought.

It needs no argument or analysis of the provisions of section 11 of this bill to convince the ordinary person that in carrying out the processes of dissolution, divestiture, reorganization, sale, or what not provided for in section 11 appalling losses will be suffered by persons of every station in life who invested their savings in securities of these companies which were organized at a time, and their properties built up and operated, under established law that made them perfectly legal and legitimate businesses and companies. Many of these investments were made years ago when no suspicion had been aroused as to the unwise, reprehensible, or fraudulent practices of the management of some of the holding companies as disclosed by the report of the investigation carried on pursuant to the authorization of this body. It seems to me to be a quite ruthless and arbitrary exercise of governmental power to which our citizenship is unaccustomed, and contrary to the principles of free government under the Federal Constitution thus to impair and jeopardize the property values of so many of our unoffending citizens.

I have given thought to the proposition as to whether or not any governmental authority has by statute or otherwise forced the divestiture of corporate stock. We are all familiar with the fact that under the Sherman Act a Federal court can after trial force by decree a dissolution of a corporation found to be guilty of violation of the provisions of that act. In no antitrust prosecution under the Sherman Act has the Court decreed a corporate dissolution where charge of violation was proved to have occurred before the passage of the act in 1890.

I desire particularly to call attention of the Senate to the provisions of section 7 of the Clayton Act. This act was approved October 15, 1914, and section 7 is chapter 323, Thirty-eighth Statutes, 731. This section refers particularly and specifically to intercorporate stockholdings, and provides for the divestiture thereof when they are found to be in violation of this law, and it is the only law in the Federal statutes that I know of that can be used as a comparison with section 11 of the bill under consideration. I read from section 7 of the Clayton Act as follows:

SEC. 7. That no corporation engaged in commerce shall acquire, directly or indirectly, the whole or any part of the stock or other share capital of another corporation engaged also in commerce, where the effect of such acquisition may be to substantially lessen competition between the corporation whose stock is so acquired and the corporation making the acquisition, or to restrain such commerce in any section or community, or tend to create a monopoly of any line of commerce.

No corporation shall acquire, directly or indirectly, the whole or any part of the stock or other share capital of two or more corporations engaged in commerce where the effect of such acquisition, or the use of such stock by the voting or granting of proxies or otherwise, may be to substantially lessen competition between such corporations, or any of them, whose stock or other share capital is so acquired, or to restrain such commerce in any section or community, or tend to create a monopoly of any line of commerce.

* * * * * * *

Nothing contained in this section shall be held to affect or impair any right heretofore legally acquired: *Provided*, That nothing

in this section shall be held or construed to authorize or make lawful anything heretofore prohibited or made illegal by the antitrust laws, nor to exempt any person from the penal provisions thereof or the civil remedies therein provided.

I desire to call special and particular attention to the language of the last paragraph, which I have just quoted, reading as follows:

Nothing contained in this section shall be held to affect or impair any right legally heretofore acquired—

on or before October 15, 1914, which was the date of the passage of the law. I ask the Senate to note again that the Clayton Act was approved on October 15, 1914, and the framers of that act in the Senate and in the House, where it was given long and most painstaking attention, evidently thought that it would be unfair and unjust to stockholders who had in good faith purchased stock in corporations which had done the acts prohibited by section 7, but which when done were not then prohibited by the law.

Under our Constitution the Congress is prohibited from passing an ex post facto law, and that provision of the Constitution was adopted for the preservation of the plain right of the citizen to be protected from an attempt on the part of Congress to declare an act penal and unlawful and subject to prosecution after the commission of the act. When the provisions of the Clayton Act were debated on the floor of the Senate, it is disclosed by the CONGRESSIONAL RECORD of that time, each section was given the highest consideration, both as to its economic and legal status, in the committee, and each section was discussed and analyzed on the floor of the Senate by such eminent constitutional lawyers as Senator Cummins, of Iowa; Senator Walsh, of Montana; Senator Reed, of Missouri; Senator Hollis, of New Hampshire; and by the very able and distinguished constitutional lawyer, our colleague the senior Senator from the State of Idaho [Mr. BORAH].

The provisions of the Clayton Act were so "canalized", to use the word coined by Mr. Justice Cardozo and used in his concurring opinion in the recently decided N. R. A. so-called "chicken" case, as that they would be guarded against such successful attack on the grounds of unconstitutionality involving interstate commerce, delegation of legislative powers, taking of property without just compensation, due process of law, impairment of the obligations of contract, or ex post facto law character.

Upon the proposition that it is unfair and unjust to good-faith investors in the securities of companies that will come under the ban of section 11, I wish to call attention to an excerpt from the opinion of Circuit Judge Evan A. Evans, of the seventh circuit, in the case of *Swift & Co.* v. *The Federal Trade Commission* (8 Fed. Reporter (2d ser.) 595). That was a case in which it was sought to have Swift & Co. divest itself of stock of two companies which it was alleged to have acquired in violation of section 7 of the Clayton Act. The case went to the circuit court of appeals on petition to review the order of the Commission directing a divestiture. The Clayton Act contains no provision limiting the time after the unlawful acquisition within which the Commission may institute its proceedings for such divestiture, and it appears that the proceedings in this case were instituted by the Commission long after the acquisition. In discussing this situation Judge Evans, a very eminent and able judge, says on page 599 of the opinion:

In conclusion it might be suggested to respondent that delay in instituting proceedings of the character here under review frequently works an unnecessary hardship to the aggrieved party. Certainly a limitation of time should be fixed, by statutory enactment or otherwise, during which these proceedings must be instituted. The purchasing company would not then (as appears was done in the case before us) invest vast sums of money enlarging and improving the acquired property before respondent took steps to restore the status of the companies.

It is manifest that the unfairness and unjustness of the institution of the proceedings long after the acquisition complained of, so impressed themselves on the mind and conscience of this able jurist that he went out of his way to suggest in the opinion that the statute be amended.

In section 11 of the pending bill no such consideration as to time is given. No matter when the corporate structure was set up or its securities disposed of to the public—even though it be a half-score or more years before the date of the possible enactment of this measure—it will have to succumb to the crumbling effects of the proposed law.

The provisions of section 11 of the bill are most sweeping and peremptory in the delegation of power to the Federal Securities and Exchange Commission "after notice and opportunity for hearing" to require each holding company and each subsidiary company thereof either to divest itself of its property or to reorganize or dissolve, or to take such steps as the Commission finds necessary or appropriate to make such holding company cease to be a holding company.

The duties thus delegated to the Commission "after notice and opportunity for hearing" are only functionary. Unlike the procedure for enforcement of the Clayton Act, the Commission is not directed to perform any judicial or quasi-judicial duty and it is not called upon to adjudicate anything unless it be certain provisions on pages 44 and 45 of the pending bill. It is told by this proposed legislation what it is required to do, that is, to dissolve these corporations, which before passage of the bill are lawfully organized, existing and operating companies, and in whose securities investors have lawfully invested their money.

No formal written complaint or other written complaint is required to be made by the Commission against them. They are not to be charged with unfair practices, unfair methods of competition, of acts of monopolization or tending to monopoly, or any other unlawful acts. No findings of fact are required to be made by the Commission on any hearing which may be called. By this proposed law it is mandatory upon the Commission to order these corporations to disintegrate.

The Commission has no quasi-judicial powers to "make findings as to facts" in any such procedure, but it can only issue such order of disintegration, and if not complied with within 1 year, the Commission shall apply to the court for the enforcement of its order, and the court without further hearing shall take possession and control of such corporation and its assets and name the Commission as its trustee, which shall under direction of the court dispose of all the assets or reorganize the corporation.

There appears in the foregoing procedure "no due process of law" as that phrase is understood and interpreted by the Supreme Court of the United States and other courts of this country. No complaint is required to be filed against these corporations and no charge of violation of any law is required to be made. It is therefore confidently asserted that such procedure cannot be characterized as "due process of law."

Under the Federal Trade Commission Act that Commission is authorized to issue orders to cease and desist from the use of unfair methods of competition and from violations of certain sections of the Clayton Act after filing and serving complaint, the taking of testimony, the making of findings as to the facts relative to the violations of law alleged and proved, and such order must be supported by evidence. The Circuit Court of Appeals is authorized to review such order and findings, and to take, or require to be taken, further evidence. By this procedure the Commission is required to make findings as to the facts as to whether or not competition is suppressed between the two corporations and whether or not the acquisition of the stock tends to create a monopoly.

The fifth amendment to the Federal Constitution provides that no person shall—

* * * be deprived of life, liberty, or property without due process of law, nor shall private property be taken for public use without just compensation.

The fourteenth amendment to the Federal Constitution provides that—

No State shall * * * deprive any person of life, liberty, or property without due process of law.

Both of the foregoing amendments impose similar restrictions upon Government powers. However, the fifth amendment is applicable only to the Federal Government, and the fourteenth, only to the States.

In the opinion in the case of *Nebbia* v. *New York* (91 U. S. 502, 1933) the court said, on page 525:

> The fifth amendment, in the field of Federal activity, and the fourteenth, as respects State action, do not prohibit governmental regulation for the public welfare. They merely condition the exertion of the admitted power, by securing that the end shall be accomplished by methods consistent with due process. And the guaranty of due process, as has often been held, demands only that the law shall not be unreasonable, arbitrary, or capricious, and that the means selected shall have a real and substantial relation to the object sought to be attained. It results that a regulation valid for one sort of business, or in given circumstances may be invalid for another sort, or for the same business under other circumstances, because the reasonableness of each regulation depends upon the relevant facts.

In the minds of fair men, and under all the circumstances involved, it seems to me that the provisions of section 11 are so unreasonable and arbitrary, and the means authorized to be employed thereby have no substantial relation to the object of regulating interstate commerce, that I doubt if it will stand constitutional test in the courts.

In the case of *Chicago, R. I. & P. Ry. Co.* v. *United States* (284 U. S. 80), the Supreme Court said:

> The use of railroad property is subject to public regulation, but a regulation which is so arbitrary and unreasonable as to become an infringement upon the right of ownership constitutes a violation of the due-process clause of the fifth amendment.

In the case of the *United States* v. *Chicago, Milwaukee, St. Paul & Pacific Railroad Co.* (282 U. S. 311), the Court held:

> The power to regulate commerce is not absolute, but is subject to the limitations and guarantees of the Constitution, among which are those providing that private property shall not be taken for public use without just compensation and that no person shall be deprived of life, liberty, or property without due process of law.

In the recently—May 6, 1935—decided case of Railroad Retirement Board against Alton Railroad Co., Mr. Justice Roberts, speaking for the majority of the Court, says:

> This Court has repeatedly had occasion to say that the railroads, though their property be dedicated to the public use, remain the private property of their owners, and that their assets may not be taken without just compensation. The carriers have not ceased to be privately operated and privately owned, however much subject to regulation in the interest of interstate commerce. There is no warrant for taking the property or money of one and transferring it to another without just compensation, whether the object of the transfer be to build up the equipment of the transferee or to pension its employees.

I ask Senators to delete from the quotation of the excerpt of Justice Roberts the word "railroads" and the word "carriers" and insert in their place the words "public utilities", and we have what will probably be a Supreme Court interpretation of section 11 of this bill in the event of its enactment.

I feel confident that if section 11 of this bill is enacted into law that before the 7-year period in which the banned companies are required to disintegrate, the sense of fairness of our people, which can always be relied upon to assert itself, will insist upon its modification or repeal, and failing in that, I am also confident that on account of its constitutional infirmities, it will go the way of the N. R. A. So why should we not endeavor to the utmost of our ability to enact a measure to regulate these interstate utility companies and their parent holding companies, that will do justice and treat with fairness all concerned in them, and not enact a law that is apt to bring upon the Congress and the able lawyers in it, the ignominy of having its own laws declared unconstitutional by the Supreme Court?

In the light of recent experience of our emergency legislation in the Supreme Court, extreme care should be taken with new legislation to avoid judicial criticism.

The amendment which I have submitted will do justice to honest controlling companies in the country. It was shown by the testimony before our committee that there are 80 holding companies in the United States and that, if enacted into law, the bill would affect them all. The underlying purpose of the proposed law is to reach the evils or alleged evils in business. We should make provision to give to honest business an opportunity to be heard. We should give to honest business that exemption from the provisions of section 11 to which honest business is entitled. That is all the amendment proposes to do and it should be incorporated in the bill.

I have been working for 2 or 3 weeks in the committee to have this idea adopted, but I have not succeeded. I hope the Senate will adopt it. The purposes of the bill can be carried out and we will avoid the injustices which are bound to creep in if we incorporate this or a similar provision in the bill.

Mr. BARKLEY. Mr. Presdent, section 11, which is sought to be amended by the amendment offered by the Senator from Connecticut [Mr. LONERGAN], provides in subsection (a) as follows:

> SEC. 11. (a) It shall be the duty of the Commission to examine the corporate structure of every registered holding company and subsidiary company thereof, the relationship among the companies in the holding-company system of every such company and the character of the interests thereof and the properties owned or controlled thereby to determine the extent to which the corporate structure of such holding-company system and the companies therein may be simplified, unnecessary complexities therein eliminated, voting power fairly and equitably distributed among the holders of securities thereof, and the properties and business thereof confined to those necessary or appropriate to the operations of a single geographically and economically integrated public-utility system.

Then in subsection (b) it is provided that "it shall be the duty of the Commission, after notice and opportunity for hearing," to do the things set out in subparagraphs 1, 2, and 3, on page 44.

The amendment offered by the Senator from Connecticut would strike out the language, beginning at the bottom of page 43, "It shall be the duty of the Commission, after notice and opportunity for hearing," to do the other things related on the following pages. The Senator would change the premises and the bases upon which those things may be done. It is the theory of the bill all the way through that the Commission shall investigate the corporate and financial structures of all the holding companies in order to find a way by which they may be simplified, and in order that the enormous holding companies, by which I mean those which control vast public-utility systems throughout the country, may be required to reorganize, not to destroy the holding company, not to make it impossible for a holding company to exist, but to limit the holding companies to territory which is contiguous and similar, so we will have a territorially and economically integrated system of public utilities. It is for that purpose that the Commission is authorized to exempt from all the provisions of title I all such companies that operate in a single State, and all such companies that operate in two or more States where the territory and the economic situation is what we call "integrated."

If the amendment of the Senator from Connecticut should be adopted, even after making the investigation set out in subsection (a), on page 43, before the Commission could do any of the things set out on page 44, the following would be required to happen:

> It shall be the duty of the Commission, if, after complaint, notice, and hearing, it is found that any registered holding company or any subsidiary thereof is engaged in practices that are detrimental to the public interest, it shall, after notice and opportunity for hearing, order—

The things that are set out on page 44.

In other words, the effect of the amendment offered by the Senator from Connecticut, however unwitting he may have been in that design, is practically to nullify the provisions of section 11 of the bill, which have been voted on in connection with the amendment offered by the Senator from Illinois [Mr. DIETERICH], for this reason: Before the Commission can take any step in order to accomplish the things set out in section 11, somebody must have made a complaint against the particular company, and the Commission must have

found the company guilty of the complaint filed against it before it can proceed to require the divestment of these unnecessary interests and connections.

Mr. LONERGAN. Mr. President, will the Senator yield?

Mr. BARKLEY. Yes.

Mr. LONERGAN. Why does not the Senator incorporate in the amendment a qualifying clause that on the motion of the Commission it may inaugurate an investigation of detrimental practices?

Mr. BARKLEY. Because the amendment of the Senator seeks to preserve the holding companies which are included in section 11 and in sections 3 and 4, and which may be eliminated by a process initiated by the Commission itself, unless, after somebody complains and the Commission finds them guilty, it sees fit to require a divestment or to bring about a dissolution because they have been guilty of some practice that the Commission thinks may be detrimental to the public interest. So the effect of the amendment is really to nullify the entire theory of section 11 and it ought not to be adopted.

As much as I regret to oppose an amendment offered by my friend from Connecticut, the amendment ought not to be adopted, because, if adopted, it will nullify the whole effect of section 11.

The PRESIDENT pro tempore. The question is on agreeing to the amendment offered by the Senator from Connecticut [Mr. LONERGAN].

Mr. WHEELER. Mr. President, I entirely agree with what the Senator from Kentucky [Mr. BARKLEY] says with reference to this amendment. It ought not to be adopted.

In the first place, the amendment gives the Commission entirely too much power. It says it shall be the duty of the Commission to take certain action—

> If, after complaint, notice, and hearing it is found that any registered holding company or any subsidiary thereof is engaged in practices that are detrimental to the public interest.

In other words, one company might be found to have been guilty of some particular practice, and that company could be put out of business by the Commission. Some other company could be allowed to continue in business because the Commission did not consider its practices against the public interest. The amendment leaves entirely too much discretion to the Commission. Instead of establishing a public policy, which we are seeking to do, it seeks to set up something in the nature of a penal statute, and say, "If you violate this particular statute you shall be put out of business."

I think the amendment is clearly unconstitutional and should be rejected.

Mr. BARKLEY. Mr. President, if the Senator will yield, the amendment really in effect empowers the Commission to separate the sheep from the goats, the good from the bad; and, it seems to me, that is the very thing the opponents of the bill have been fighting against all during the consideration of the bill.

Mr. WHEELER. The amendment not only does that, but it leaves the decision entirely up to the Commission. Think of the tremendous power that would be in the hands of the Commission if this amendment were adopted! I said a moment ago that I seriously doubt the constitutionality of the amendment, because it says that certain action shall be taken if the Commission finds that a company is engaged in practices that are detrimental to the public interest. What practices that are detrimental to the public interest?

Mr. LONERGAN. Mr. President, will the Senator from Montana yield?

Mr. WHEELER. Yes.

Mr. LONERGAN. That is a phrase which runs through the bill.

Mr. WHEELER. Oh, yes; but not from the broad viewpoint of this provision. This amendment leaves with the Commission entire discretion to say what practices are detrimental. We have not gone to the extent of saying what practices are detrimental to the public interest.

In order to write a law of this kind, what would have to be done, as I explained to the Senator the other day when I talked with him about this very matter, would be to say that this and this and this, and so and so and so, are against the public interest; and then it would be necessary to say that any company which violates any one of these provisions is guilty and shall be dissolved. The Senator's amendment, however, simply provides that any practice that the Commission finds is against the public interest shall result in dissolution—not a practice that is condemned by the statute. The amendment leaves it up to the Commission to set the standard and to say that this practice is against the public interest and that practice is against the public interest that this practice is not against the public interest and some other practice is not against the public interest; and then the Senator says that upon that theory he is going to let the Commission make the decision. He is letting the Commission legislate, without a question of doubt; and I have no doubt whatever that that is unconstitutional.

Any Senator who is complaining because we are giving the Commission too much discretion in the bill certainly could not vote for an amendment which said to the Commission, "You can set up the standard of what is in the public interest and what is against the public interest." Under the doctrine of the Schechter case there is no more doubt in my mind that the Supreme Court would declare that provision unconstitutional than that I am standing on this floor.

Mr. LONERGAN. Mr. President, if the words to which the Senator from Montana has referred were incorporated in the amendment, would he accept it?

Mr. WHEELER. No; because I do not think it is possible to incorporate them in the amendment. In other words, as I explained to the Senator the other day when we discussed the subject——

Mr. LONERGAN. We have had several talks on the subject. The Senator knows that what I am trying to accomplish is to protect honest business.

Mr. WHEELER. Exactly. In that respect I entirely agree with the Senator from Connecticut; but, as I said to him, the difficulty, and the matter that has not been understood by a great many Senators, is this:

I have given a great deal of thought to the possibility of framing a law which will simply say, "This is a practice that we condemn, and this is a practice that we do not condemn"; but when we come to consider the various practices, if we study the Federal Trade Commission report we see that it is almost an impossibility to write a set of laws and say that this and this and this are against the public interest. So the policy has been to say that the holding-company system is wrong as a matter of public policy, because where such companies are scattered all over the country it is impossible to set up rules and standards to regulate them.

Now, the Senator from Connecticut says, "We want to delegate to a commission power to say what standards are right and what standards are wrong." In other words, he asks the Commission to set up rules and regulations which amount to law which would put a corporation out of business. I say it is impossible to do that, because it is unconstitutional. Unquestionably, it is the very thing which was condemned in the Schechter case, because in the Schechter case the Supreme Court said, "What you are in effect doing is turning over to the industry the power to make rules and regulations which amount to law."

That is what the Senator is doing in this case, except that here he turns over the power to a commission. There is no standard at all set up in the amendment, whereas in the bill we have set up definite standards by which the Commission is to be ruled. The Senator takes away entirely all those standards.

Mr. LONERGAN. Mr. President, may the amendment be stated?

The PRESIDENT pro tempore. The amendment offered by the Senator from Connecticut will be stated.

The CHIEF CLERK. It is proposed to strike out the language in lines 23 and 24 on page 43, and in lieu thereof to insert the following:

It shall be the duty of the Commission, if, after complaint, notice, and hearing, it is found that any registered holding company or any subsidiary thereof is engaged in practices that are detrimental to the public interest, it shall after notice and opportunity for hearing order—

Mr. LONERGAN. I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. LONG. Mr. President, we have an agreement to vote on the bill not later than 4 o'clock, and I presume this is the last amendment of any consequence.

Mr. BORAH. No, Mr. President; I have an amendment which I desire to offer.

Mr. LONG. Will the Senator pardon me, then? I desire to be heard for just a moment on the bill. I can occupy only 10 minutes of the time.

The amendment of the Senator from Connecticut [Mr. LONERGAN] proposes to do just what the Supreme Court in the N. R. A. decision said the President of the United States could not do. The amendment proposes to have the Commission say as a matter of law either that a concern is under the act or that it is not under the act. It does not even furnish any guide stakes. It simply says that if the Commission find, in the public interest, that an electrical concern ought to be under the holding-company law, it is under it; or if the Commission do not find in the public interest that the concern ought to be under the holding-company law, it is not under it.

Manifestly, if this provision should go into the bill, the Supreme Court of the United States would almost be compelled to say that the entire matter ab initio was unconstitutional and void.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. CLARK. I agree very largely with what the Senator says. I suggest to him, however, that the bill is shot through from end to end with such delegations of power as that. For instance, on page 46, at the bottom of the page, it provides:

Such reorganization plan may be proposed in the first instance by the Commission, or, subject to such rules and regulations as the Commission may deem necessary or appropriate in the public interest or for the protection of investors, by any person having a bona fide interest (as defined by the rules and regulations of the Commission) in the reorganization.

This bill is shot through with that sort of delegation of power.

Mr. LONG. Yes; but that does not relate to the fundamental idea of whether or not a company is under the act.

Mr. BLACK. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. BLACK. This relates to the fundamental idea of whether or not the company shall exist.

Mr. LONG. That is true.

Mr. BLACK. In other words, this amendment is another effort to strike out section 11 and destroy the bill.

Mr. LONG. There is no doubt about that.

Mr. LONERGAN. Mr. President——

Mr. LONG. I decline to yield just for a moment. I have only 10 minutes.

It is one thing to say that in the matter of bookkeeping, accounting, consolidations, and so forth, the Commission must find that the company is in the public interest, and it is another thing to say whether it is a company which shall or shall not exist. Those are entirely different strata, and they affect companies differently.

We all know that in the public interest the Interstate Commerce Commission can allow railroad consolidations; but the Interstate Commerce Commission could not be authorized to say that in the public interest a concern would have to go out of business or stay in business. We would get below the line of fundamental legislation, which no court would countenance.

I am a little surprised at the persistency with which the adversaries undertake to knife the bill.

Mr. DIETERICH. Mr. President, will the Senator yield?

Mr. LONG. I yield for a question.

Mr. DIETERICH. The Senator has just stated a principle which he said no court would sustain, contending that no court would say that the Commission, in its judgment, could permit one company to operate and another to go out of business. Perhaps I misunderstood the Senator.

Mr. LONG. The Senator did.

Mr. DIETERICH. If the Senator's principle is correct, then clause 3 of section 11 does that very thing.

Mr. LONG. No; the Senator did not correctly understand me. The distinction is this: Congress can authorize a commission, or the Executive, under certain guides, and according to certain standards, and within certain confines, upon the happening of an event or the ascertainment of certain facts, to do certain things. That can be done. But Congress cannot authorize the Executive, nor can it authorize any commission appointed by Congress or by the Executive, to say, "This law applies to this concern, if you want it to, or this law does not apply to this concern if you do not want it to." That is the distinction. It takes a better legal mind than I have to explain the distinction to the Senator from Illinois perhaps.

Mr. DIETERICH. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. DIETERICH. The very utterance the Senator has just made falls absolutely within clause 3 of section 11 of the bill. Under that clause they can do the very things which the Senator says cannot be done.

Mr. LONG. I am sorry I cannot agree with the Senator. Thank goodness he is only a Senator. If he were a judge and I were before him, I would have to pay more attention to his opinion. [Laughter.] I cannot agree at all with the Senator's conclusion in that respect.

What astounds me is the persistency with which the underhanded knifing against the bill continues. One is either for the bill, or he is not. He is either against this nefarious, self-confessed swindling system or for it. No one defends it. Even my distinguished and eloquent friend from Illinois rises, and the first word he says is, "We know that most of the business has been crooked", but he says, "Let us see if we cannot find some good in this nefarious operation which has been going on in the country."

Then our friend from West Virginia, who is now absent from the Chamber, though I have risen for the purpose of correcting his Biblical quotation, because he was as wrong on the Bible as he was on the bill [laughter], made the statement that when the Lord was on the way to destroy Sodom and Gomorrah he was stopped and asked, "Will you destroy the good with the bad?" And the Lord said, "Find me 10 good in Sodom or Gomorrah, and I will save the city." And Lot went out and made a search, and could not find 10 good ones. When the Senator from Montana called on the Senator from West Virginia to point out one good public-utility concern affected by the bill, he could not find 1, let alone 10.

Let me state what the Bible says—and I hope my friend from West Virginia will read it tomorrow. When the Lord sent out old man Lot to find 10 good, and he could not find 10 good—and one could no more find 10 good holding companies that would be affected under the bill than Lot could find 10 good men in Sodom at that time—when he could not find 10 good people, what did the Lord say? He said, "What few good ones you can find, get them from that den of iniquity, because I propose to rain down fire and brimstone and extinguish every root and branch of the damnable outfit until there is nothing left of them." And if there is one good one in this outfit——

The PRESIDENT pro tempore. The Senator's time has expired.

Mr. BORAH obtained the floor.

Mr. LONERGAN. Mr. President, was a vote ordered on my amendment?

The PRESIDENT pro tempore. The yeas and nays have been ordered.

Mr. BORAH. If the vote is to be taken at once, I shall wait.

The PRESIDENT pro tempore. The clerk will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. DAVIS (when his name was called). I have a general pair with the junior Senator from Kentucky [Mr. LOGAN], but I am permitted to vote. I vote "yea."

Mr. McNARY (when his name was called). Announcing my pair with the senior Senator from Arkansas [Mr. ROBINSON], who is absent, and not knowing how he would vote, I withhold my vote.

The roll call was concluded.

Mr. DIETERICH. I desire to announce that my colleague the senior Senator from Illinois [Mr. LEWIS] is necessarily absent.

Mr. CLARK. I wish to announce that my colleague the junior Senator from Missouri [Mr. TRUMAN] is unavoidably detained from the Senate.

Mr. BARKLEY. I wish to announce that the Senator from Arkansas [Mr. ROBINSON] and the Senator from Kentucky [Mr. LOGAN] are unavoidably detained.

Mr. HARRISON. I wish to announce that my colleague the junior Senator from Mississippi [Mr. BILBO] is unavoidably detained from the Senate. If present, he would vote "nay."

The result was announced—yeas 43, nays 45, as follows:

YEAS—43

Austin	Clark	Gore	Reynolds
Bachman	Coolidge	Hale	Schall
Bailey	Copeland	Hastings	Smith
Bankhead	Davis	Hayden	Steiwer
Barbour	Dickinson	Keyes	Thomas, Okla.
Bulkley	Dieterich	King	Townsend
Burke	Duffy	Lonergan	Tydings
Byrd	George	Metcalf	Vandenberg
Byrnes	Gerry	Moore	Walsh
Carey	Gibson	Neely	White
Chavez	Glass	Radcliffe	

NAYS—45

Adams	Donahey	McKellar	Russell
Barkley	Fletcher	Maloney	Schwellenbach
Black	Frazier	Minton	Sheppard
Bone	Guffey	Murphy	Shipstead
Borah	Harrison	Murray	Thomas, Utah
Brown	Hatch	Norbeck	Trammell
Bulow	Johnson	Norris	Van Nuys
Capper	La Follette	Nye	Wagner
Caraway	Long	O'Mahoney	Wheeler
Connally	McAdoo	Overton	
Costigan	McCarran	Pittman	
Couzens	McGill	Pope	

NOT VOTING—7

Ashurst	Lewis	McNary	Truman
Bilbo	Logan	Robinson	

So Mr. LONERGAN'S amendment was rejected.

Mr. BORAH. Mr. President, early in this debate the able Senator from Nebraska [Mr. NORRIS] challenged any Senator to point out a reason for the existence of a holding company beyond the first or second degree. I think the Senator said the first. That challenge has not been answered. I do not think it can be answered. I think one of the commanding principles involved in this bill is the effort to terminate the existence of holding companies—certainly holding companies where they have control of 40, 50, or 60 subsidiary companies.

I recall in the debate on the tax bill last year when the subject of eliminating consolidated returns was up that the facts were submitted here showing that holding companies had as high as 90 subsidiary companies. In my opinion, Mr. President, there can be no justification for the existence of such holding companies, and I think we ought to make it our definite object and purpose in this bill to incorporate that principle in the bill.

Therefore, I offer an amendment upon page 45 of the bill in the proviso:

Provided, however, That the Commission, upon such terms and conditions as it may find necessary or appropriate in the public interest or for the protection of investors or consumers, shall permit a registered holding company to continue to be a holding company if such company has obtained from the Federal Power Commission—

And so forth. I wish to have inserted after the word "company", in line 7, the words "in the first or second degree." That would limit the power of the Commission in granting the permit, or the right to continue as a holding company, to the first- and second-degree holding company. That the Commission would not have the power to continue the existence of holding companies beyond the first and second degree.

Mr. BARKLEY. Mr. President, will the Senator yield?

Mr. BORAH. I yield.

Mr. BARKLEY. Does the Senator think his amendment ought to go in line 7 or in line 8? The word "company" appears twice:

Shall permit a registered holding company to continue to be a holding company in the first or second degree if such company has obtained—

And so forth.

Mr. BORAH. Would the Senator insert it after the word "company" in line 8?

Mr. BARKLEY. It occurs to me as preferable, but I do not think it is vital.

Mr. BORAH. It did not seem to me so. I am not particular about that. That could be adjusted in conference. However, I should like to ask the Senator from Montana his view as to the wisdom of this amendment. It seems to me it ought to be incorporated in the bill. I myself want to have a definite expression against these holding companies beyond the second degree.

Mr. NORRIS. Mr. President, before the Senator from Montana answers might I interrupt the Senator?

Mr. BORAH. I yield.

Mr. NORRIS. I wonder why the Senator has put in "second" degree. Why not leave that part of it out? There has not been any second-degree holding company which has ever been justified here or elsewhere that I know of.

Mr. BORAH. I quite agree with that view. My only reason for putting in "second" degree was after consultation with some parties who said that if it came to a yea-and-nay vote I would have more votes if that were put in.

Mr. GORE. Mr. President, will the Senator yield?

Mr. BORAH. I yield.

Mr. GORE. I wish to have the Senator yield to me in order that I may send an amendment to the desk so it may be in order before 4 o'clock.

Mr. BORAH. I am afraid I cannot yield for that purpose.

Mr. WHEELER. Mr. President, did I understand the Senator's amendment to read "in the first or second degree"?

Mr. BORAH. I am perfectly willing, if it is more satisfactory to the Senator to limit it to the first degree.

Mr. WHEELER. I myself think that it ought to be limited to the first degree.

Mr. BORAH. That is very satisfactory to me.

Mr. TYDINGS. Suppose an operating company had a subsidiary company and an appliance company, and the operating company was owned by the holding company. The operating company in that case would be in the first degree, but the appliance company would be in the second degree. As I understand the case, it might be perfectly proper for the appliance company in that case to be a subsidiary of the operating company. I hope that the words "second degree" will be left in to take to conference anyway. We can restrict it, but we cannot enlarge it in conference.

Mr. NORRIS. Will the Senator yield?

Mr. BORAH. I yield.

Mr. NORRIS. I should like to say, in answer to the Senator's suggestion, that there is not any reason why the two corporations which the Senator has named should not be owned by the holding company if both of them are in the first degree, but just as soon as we get beyond that then the company is in the second degree.

Mr. TYDINGS. That is true, but where that situation already exists I cannot see that the spirit and the purpose of the bill would be defeated by allowing that.

Mr. NORRIS. If that holding company were to take the subsidiary company, then it would have two companies, both in the first degree, however.

Mr. TYDINGS. That is true; yes.

Mr. NORRIS. The moment the Senator lays down that bar he gets into all kinds of trouble quickly.

Mr. TYDINGS. I may say to the Senator——

Mr. BORAH. Mr. President, we are approaching the fatal moment.

Mr. WHEELER. I will say to the Senator I have not any objection to it being in the first degree, but I do not want it to be in the second degree.

Mr. BORAH. I qualify my amendment to that extent.

The VICE PRESIDENT. The question is on agreeing to the amendment of the Senator from Idaho.

The amendment was agreed to.

Mr. GORE. Mr. President, a few moments ago I sent an amendment to the desk which I should like now to call up.

The VICE PRESIDENT. The amendment will be stated.

The CHIEF CLERK. In section 11 (g), on page 51, line 10, after the word "unless", it is proposed to insert the following: "an order of the court shall be first had and obtained, or unless."

Mr. WHEELER. Mr. President, will the Senator explain that amendment? It has just been called to my attention.

Mr. GORE. It is in connection with the paragraph in the bill which makes it unlawful for anyone to solicit proxies, powers of attorney, or even dissents, except in certain specified cases where, for the most part, it is to be done by the Commission itself.

It occurred to me, particularly in connection with dissents, that there are instances where a group of stockholders ought to be allowed to kick. They certainly ought to have the right to object. I remember that a few years ago a number of minority stockholders in the Bethlehem Steel Co. protested against the bonus raids perpetrated upon the stockholders of that concern. Senators will remember that it paid out $30,000,000 in bonuses to officers and directors in the 10-year period from 1918 to 1928. From 1925 to 1928, inclusive, that company paid out $6,000,000 in bonuses. During those 4 years when no dividend was paid on common stock $3,000,000 in bonuses was paid to the President of that company.

In 1929, $1,600,000 was paid to the President of the Bethlehem Steel Co. In 1931, $1,000,000 and more was paid to the president of that concern in the form of a bonus, even though the company did not earn its dividend that year.

I do not think an aggrieved minority ought to be deprived of the right to protest or file a "dissent", to use the language of the bill. My amendment is intended to give them an opportunity at least to obtain an order of court entitling them to do so.

The VICE PRESIDENT. The hour of 4 o'clock has arrived and under the order of the Senate the question is, Shall the bill pass?

Mr. CONNALLY. Mr. President, pending amendments must be voted on first.

The VICE PRESIDENT. If the Senator from Texas will examine the unanimous-consent agreement he will see that it is the most peculiar agreement ever entered into by the Senate; at least so the Parliamentarian advises the Chair. Usually such an agreement is to proceed through the usual parliamentary stages of the bill to a final vote, but in this instance it is a unanimous-consent agreement directing that at 4 o'clock the bill shall be voted upon. I do not know what the English language means if it does not mean that at this hour the Senate shall proceed to vote on the bill.

Mr. GORE. Mr. President, I ask unanimous consent to have printed in the RECORD at this point two amendments which I have introduced and intended to call up at this time. I was not aware of the peculiar parliamentary situation just referred to by the Presiding Officer. My understanding was that amendments which had been introduced and printed and which had been lying on the table would be in order at this juncture—after 4 o'clock, the hour fixed by the unanimous-consent agreement for the vote.

I also ask unanimous consent to have printed in the RECORD at this point a letter which I wrote to a constituent, which indeed I have addressed to several thousand constituents.

There being no objection, the amendments and the letter were ordered to be printed in the RECORD, as follows:

On page 45, line 24, after "consumers.", insert: "That any registered holding company and any subsidiary company thereof desiring to simplify and dissolve or reorganize its corporate structure or eliminate interlocking directorate pursuant to this act, shall, pending such operations or proceedings and in furtherance thereof, be eligible for loans from the Reconstruction Finance Corporation, provided adequate securities are furnished for such loans."

On page 47, line 1, after the word "instance", strike out all down to and including "reorganization" in line 6 and insert "by any person or persons having a bona fide interest: *Provided*, That if the Commission shall deem the plan not to be in the public interest, then the Commission may file a plan in such proceedings or objections and amendments to the plan. No plan shall be approved by the court unless, after notice and hearing, the court finds the same to be fair and equitable and appropriate to effectuate the provisions of this title."

UNITED STATES SENATE,
Washington, D. C., March 9, 1935.

Mr. C. M. WILLIAMS,
Holdenville, Okla.

MY DEAR SIR: I beg to acknowledge receipt of your communication protesting against the passage of the Rayburn holding-company bill. I have not yet had occasion to analyze that measure as it was introduced in the House. Of course, I will do so before it comes up in the Senate. Any such measure should, of course, be constitutional and should be limited to existing evils, and calculated to do more good than harm.

I say that in order to say this, if you will allow a suggestion, that an effort be made to segregate these companies into two classes: A class which on one hand performs some economic function or service and justifies its existence, and another class which does not perform any such function or render any such service, but which was organized merely to plunder the smaller concern. There are holding companies of that description. They are public enemies. They ought to be abolished, and if you will take in good part a suggestion which is intended to be serviceable, you will insist that such a segregation be made, and will not take part in an indiscriminate program to preserve all holding companies, good and bad alike. You will lose that sort of fight, whereas you might salvage those that deserve saving.

With best wishes, sincerely yours,

T. P. GORE.

The VICE PRESIDENT. The question is, Shall the bill be engrossed and read a third time?

The bill was ordered to be engrossed for a third reading and was read the third time.

The VICE PRESIDENT. The question is, Shall the bill pass?

Mr. WHEELER. Let us have the yeas and nays.

The yeas and nays were ordered, and the legislative clerk proceeded to call the roll.

Mr. DAVIS (when his name was called). I have a general pair with the junior Senator from Kentucky [Mr. LOGAN]. I do not know how he would vote if present. If permitted to vote, I should vote "nay."

Mr. MCNARY (when his name was called). On this vote I have a pair with the senior Senator from Arkansas [Mr. ROBINSON]. I am advised that if present he would vote as I am about to vote. I vote "yea."

Mr. CLARK (when Mr. TRUMAN'S name was called). I desire to announce that my colleague the junior Senator from Missouri [Mr. TRUMAN] is unavoidably detained. I am informed that if present he would vote "yea."

The roll call was concluded.

Mr. KING. On this vote I have a general pair with the junior Senator from Mississippi [Mr. BILBO].

Mr. DIETERICH. I desire to reannounce the necessary absence of my colleague the senior Senator from Illinois [Mr. LEWIS].

Mr. BARKLEY. I desire to announce the unavoidable absence of my colleague the junior Senator from Kentucky [Mr. LOGAN].

I also desire to announce that the senior Senator from Arkansas [Mr. ROBINSON] and the junior Senator from Mis-

sissippi [Mr. BILBO] are unavoidably detained. If present, these Senators would vote "yea."

Mr. GORE. Mr. President, may I say a word in this connection, or would that be out of order?

The VICE PRESIDENT. It would be out of order.

Mr. GORE. Very well.

The result was announced—yeas 56, nays 32, as follows:

YEAS—56

Adams	Connally	Long	Overton
Bailey	Costigan	McAdoo	Pittman
Bankhead	Couzens	McCarran	Pope
Barkley	Donahey	McGill	Radcliffe
Black	Duffy	McKellar	Russell
Bone	Fletcher	McNary	Schwellenbach
Borah	Frazier	Maloney	Sheppard
Brown	Gore	Minton	Shipstead
Bulkley	Guffey	Murphy	Thomas, Okla.
Bulow	Harrison	Murray	Thomas, Utah
Byrnes	Hatch	Norbeck	Trammell
Capper	Hayden	Norris	Van Nuys
Caraway	Johnson	Nye	Wagner
Chavez	La Follette	O'Mahoney	Wheeler

NAYS—32

Ashurst	Coolidge	Hale	Schall
Austin	Copeland	Hastings	Smith
Bachman	Dickinson	Keyes	Steiwer
Barbour	Dieterich	Lonergan	Townsend
Burke	George	Metcalf	Tydings
Byrd	Gerry	Moore	Vandenberg
Carey	Gibson	Neely	Walsh
Clark	Glass	Reynolds	White

NOT VOTING—7

Bilbo	King	Logan	Truman
Davis	Lewis	Robinson	

So the bill was passed.

Mr. GORE. Mr. President, I had certain amendments pending, which I hoped the Senate would adopt, which would have enabled me to vote for the holding company bill without reservations. It is my hope that in the other House or in conference those amendments will be virtually adopted and incorporated in the bill. With that hope, after conference with the chairman and other Senators, I voted for the bill.

Mr. ASHURST. Mr. President, I ask unanimous consent to have printed in the RECORD at this point a letter regarding the Wheeler-Rayburn bill addressed to me by Mr. W. H. Linville, county recorder of Maricopa County, Ariz.

The VICE PRESIDENT. Is there objection?

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COUNTY RECORDER, MARICOPA COUNTY,
Phoenix, Ariz., May 28, 1935.

Hon. HENRY F. ASHURST,
United States Senator, Washington, D. C.

DEAR HENRY: I note that within a few days the Wheeler-Rayburn public-utility bill will be up for consideration in the Senate.

This being a matter of vital importance, I have taken time to study its probable effect on our community and as well all others similarly situated.

I have procured much data in point pro and con on the subject and have before me this morning some important facts published in Tennessee, where the T. V. A. activities have occasioned much discussion concerning the probable effect of the passage of S. 2796. In my research I have not overlooked the utility concerns of Arizona, and while they have ever been the recipients of continuing broadsides from certain sources, I have been fair enough to weigh the situation in the light of perfect fairness and have gone into history of concerns that operated here in the past and were later taken over by the public, and without exception they have all proven liabilities rather than assets. These institutions then paid substantial sums in taxes. This now falls on other classes of privately owned property.

This tax in varying sums is merged and scattered through the whole remaining set-up and no person may say or realize what portion attaches to a particular assessment, but it is there nevertheless.

For example, I quote from financial statement of Tennessee Electric Power Co. for year ending December 31, 1934. The general State tax paid (1934) was $1,807,226.48; Federal income, $156,313.

With a little effort I could submit figures on our local institutions, but since I have the Tennessee statement before me I shall use it as a concrete example of how it operates here.

Under public ownership Tennessee people will keenly feel the loss of this tax.

In my opinion, the public utility act will operate to place virtually all utilities under public ownership; it seems that it contemplates further usurpation by the Federal Government of rights that now belong, and as a matter of justice ought to belong to the States.

If we may continue to recognize the right of corporations to operate in this land, then I cannot conceive of the advantage of abolishing holding companies.

As a matter of fact, without holding companies all small concerns, however meritorious the venture, are placed under serious handicap and must, as I view the situation, abandon the field in favor of more powerful institutions or subject small communities to public ownership whether or not such communities would prefer it.

I favor limited regulatory measures, preferably by the States, wherein such institutions operate, but I am absolutely opposed to the abolition of holding companies.

The holding company, in my judgment, occupies in its field the same position in which the Government stands in relation to the now very convenient and necessary loans, and who is there to offer objection to recent holding-company appropriations by the largest holding company on earth, the good old U. S. A.

Kind regards.

W. H. LINVILLE.

APPOINTMENT OF ADDITIONAL DISTRICT JUDGE—CONFERENCE REPORT

Mr. ASHURST submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 4665) to authorize the appointment of a district judge to fill the vacancy in the district of Massachusetts occasioned by the death of Hon. James A. Lowell, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendments of the Senate to the text of the bill and the title thereof and agree to the same.

HENRY F. ASHURST,
WM. E. BORAH,
WILLIAM H. KING,
Managers on the part of the Senate.
HATTON W. SUMNERS,
W. V. GREGORY,
RANDOLPH PERKINS,
Managers on the part of the House.

The report was agreed to.

LOANS TO EXECUTIVE OFFICERS OF MEMBER BANKS

The VICE PRESIDENT. The Chair lays before the Senate a joint resolution coming over from the House of Representatives.

The joint resolution (H. J. Res. 320) to extend from June 16, 1935, to June 16, 1938, the period within which loans made prior to June 16, 1933, to executive officers of member banks of the Federal Reserve System may be renewed or extended, was read the first time by its title and the second time at length, as follows:

Resolved, etc., That subsection (g) of section 22 of the Federal Reserve Act is hereby amended by striking out "*Provided*, That loans heretofore made to any such officer may be renewed or extended not more than 2 years from the date this paragraph takes effect, if in accord with sound banking practice" and inserting in lieu thereof "*Provided*, That loans made to any such officer prior to June 16, 1933, may be renewed or extended for periods expiring not more than 5 years from such date where the board of directors of the member bank shall have satisfied themselves that such extension or renewal is in the best interest of the bank and that the officer indebted has made reasonable effort to reduce his obligation, these findings to be evidenced by resolution of the board of directors spread upon the minute book of the bank."

Mr. FLETCHER. Mr. President, I ask unanimous consent that the Senate now consider the joint resolution. The Senate Committee on Banking and Currency earlier in the day reported a Senate joint resolution identical in terms with this one. It will not lead to discussion.

Mr. HARRISON. Will not the Senator from Florida please let us get through with the N. R. A. joint resolution?

Mr. FLETCHER. This matter will not lead to any discussion.

Mr. HARRISON. If that is the case, very well; but I may say to the Senate that I hope we shall stay here this evening until we shall have concluded the consideration of the N. R. A. joint resolution.

Mr. FLETCHER. I am perfectly willing to do that.

The VICE PRESIDENT. Is there objection to the request of the Senator from Florida?

There being no objection, the joint resolution was considered, ordered to a third reading, read the third time, and passed.

Mr. FLETCHER. I ask to have printed in the RECORD the Senate joint resolution reported today from the Committee on Banking and Currency.

There being no objection, the Senate Joint Resolution 146, as reported by the Committee on Banking and Currency, was ordered to be printed in the RECORD, as follows:

[Omit the part in brackets and insert the part printed in italics]

Resolved, etc., [That subsection (g) of section 22 of the Federal Reserve Act, as amended, is further amended by changing the word "two" before the word "years" in such subsection to the word "five."] *That subsection (g) of section 22 of the Federal Reserve Act is hereby amended by striking out "Provided, That loans heretofore made to any such officer may be renewed or extended not more than 2 years from the date this paragraph takes effeect, if in accord with sound banking practice." and inserting in lieu thereof "Provided, That loans made to any such officer prior to June 16, 1933, may be renewed or extended for periods expiring not more than 5 years from such date where the board of directors of the member bank shall have satisfied themselves that such extension or renewal is in the best interest of the bank and that the officer indebted has made reasonable effort to reduce his obligation, these findings to be evidenced by resolution of the board of directors spread upon the minute book of the bank."*

On motion of Mr. FLETCHER, the joint resolution (S. J. Res. 146) to extend from June 16, 1935, to June 16, 1938, the period within which loans made prior to June 16, 1933, to executive officers of member banks of the Federal Reserve System may be renewed or extended, was ordered to be indefinitely postponed.

LYMAN C. DRAKE

The VICE PRESIDENT laid before the Senate the amendment of the House of Representatives to the bill (S. 2591) for the relief of Lyman C. Drake, which was, on page 1, line 14, after "injuries", to insert a colon and *"And provided further,* That no part of the amount appropriated in this act in excess of 10 percent thereof shall be paid or delivered to or received by any agent or agents, attorney or attorneys, on account of services rendered in connection with said claim. It shall be unlawful for any agent or agents, attorney or attorneys, to exact, collect, withhold, or receive any sum of the amount appropriated in this act in excess of 10 percent thereof on account of services rendered in connection with said claim, any contract to the contrary notwithstanding. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000."

Mr. KING. I move that the Senate concur in the amendment of the House.

The motion was agreed to.

EXTENSION OF NATIONAL INDUSTRIAL RECOVERY ACT

The Senate resumed the consideration of the amendment of the House to the joint resolution (S. J. Res. 113) to extend until April 1, 1936, certain provisions of title I of the National Industrial Recovery Act, and for other purposes.

The VICE PRESIDENT. In order that the Senate may understand the parliamentary situation, the Chair is advised that the House has passed the Senate joint resolution with an amendment. The Senator from Mississippi [Mr. HARRISON] has moved to concur in the House amendment with an amendment, which, in the parliamentary situation, is equivalent to an amendment to the original text. It is the understanding of the Chair that the motion now pending is that made by the Senator from Oklahoma [Mr. GORE] to amend the amendment offered by the Senator from Mississippi.

Is that a correct statement of the parliamentary situation?

Mr. HARRISON. As I understand, that is correct.

The VICE PRESIDENT. The question, then, is on agreeing to the amendment offered by the Senator from Oklahoma [Mr. GORE] to the amendment of the Senator from Mississippi.

Mr. LONG. Mr. President, I desire to be heard on this joint resolution. I do not wish to delay the adoption of the amendment, however. If the amendment is acceptable to the controlling forces handling the joint resolution, I shall not take up any time.

Mr. HARRISON. Mr. President, I may say to the Senator from Louisiana that the amendment is not acceptable to those in charge of the measure, because we are very anxious to get this matter behind us. The amendment adds a new question to the joint resolution which applies not only to the N. R. A. but to every other agency of the Government; and, if adopted, it must go back to the House.

If I had thought we were going to deal with every other agency of the Government on this joint resolution, I should have asked that the matter go to conference. I did not do that because I thought we could confine ourselves to this issue. We shall not be doing so, however, if in the case of all agencies of the Government we try to provide for the confirmation of persons appointed to office.

Mr. GORE. Mr. President——

Mr. LONG. I yield to the Senator from Oklahoma.

Mr. GORE. I will say that the House joint resolution has already been amended by the Finance Committee. Amendments have been reported, and are now pending, so that if adopted they will have to be concurred in by the House, or else the measure will have to go to conference. I do not think the complication referred to by the Senator from Mississippi will necessarily arise.

Mr. LONG. No; on the contrary, instead of complicating matters, the amendment of the Senator from Oklahoma ought rather to harmonize them and give the joint resolution clearer sailing, because previously the provisions contained in the Gore amendment have been adopted by the Senate.

Mr. HARRISON. Mr. President, I desire to observe that in my opinion, if the amendment which the Senate Committee on Finance considered, and which is offered by me as an amendment to the House action, shall be adopted by the Senate, the House will concur in that amendment. If this new question shall be added, the House may ask for a conference and delay the enactment of the legislation; and, as the Senator is well aware, the 16th of June is the day of limitation so far as N. R. A. is concerned.

Mr. LONG. I think the people of the United States are aware of it, and they have all been praying for the 16th of June to come at a much earlier time than the Lord ordinarily lets the hands of the clock bring it. I, myself, have been praying that, like Rip Van Winkle, I would fall into a 7-day sleep, and find that the whole world had been with me in the 7-day sleep, and that when I woke up the "Blue Eagle" would have been hauled down, and the stars and stripes would have taken its customary position in the affairs of the Government.

The Chair intimates that he has some misgivings on the parliamentary state of the N. R. A. legislation; I am like the Chair. I think everyone has some misgivings on it; but, as to the amendment now pending, I should like to get the noncontroversial part of the joint resolution out of the way before discussing the part which may be controversial.

In other words, if we could get out of the way this formality, which we have once before adopted by a very large majority, we should then be in a position to discuss whether or not we desire to try to keep alive an act of Congress that the Supreme Court of the United States has unanimously said was unconstitutional. It might be in the mind of Congress that they will want to do this anyway. However, the Gore amendment, which is now before the Senate, merely undertakes to do what has been done by Congress in the past.

We adopted an amendment to the $5,000,000,000 work relief joint resolution and, as the Senator from Maryland very appropriately said this morning, we concluded that if we were going to have the time of the Senate spent in considering the appointments of $1,500 postmasters and officials of that kind, men and women who employ no one, and have very unimportant affairs under their jurisdiction, we should not fail to provide that officials who were drawing from 3 to 4 or 10 times that amount of money and dispensing perhaps from a hundred to a thousand times that amount of money should likewise be subject to confirmation or approval by this body. On the previous occasion

when the matter reached the committee of conference there was a rather substantial endorsement given to that provision adopted by the Senate, and I and others in this body naturally felt that that thing was at an end. In other words, the news came to the Senate that the House had accepted the provision of the Senate amendment which would have meant that the men in charge of these large sums would have to receive the endorsement of this body. Therefore our interest in it more or less waned, because it was no longer an issue.

It seems, however, that some outside voice spoke to the conferees, or one or more of them slept over it and got some other idea into his head, so they went back into conference the next day or a day later and they not only struck out what the Senate did, but, mind you, they provided by their compromise that the angel should become a witch. Not only did they strike out our provision that these employees must be confirmed, but as to section 1761, which at that time prevailed to some extent, the compromise provided that it should not in any respect interfere with men and women employed under the $5,000,000,000 relief measure.

Such action was beyond the power of the conference committee, as the Senator from Oklahoma suggests to me. They went into matters which were not even in controversy. As a matter of parliamentary practice, they violated the duty which they were intended to perform. Not only did they strike out our amendment, but they put in some additional legislation. We would have been better off not to have had the conference. They not only struck out our amendments, but they so phrased the words that section 1761 could not even apply. That is what the conference committee did.

Now we are back here with the Gore amendment before us. The Gore amendment has already been read, and I think there was a large attendance in the Senate when it was read. It provides that all who receive compensation of more than $4,000 shall be confirmed by the Senate. That is provision no. 1. Subdivision (b) provides:

> No such person appointed during the recess of Congress—

I hope Senators will listen to this—

> No such person appointed during the recess of Congress shall serve or be paid for a longer period than 60 days after the convening of the next succeeding session of Congress unless appointed and confirmed as provided above and no such person appointed while Congress is in session shall serve or be paid for a period of more than 60 days nor beyond the adjournment of Congress unless so appointed and confirmed.

We have had an unusual experience in late years about confirming appointees. All over the United States the administration has appointed acting postmasters. All over this country they have appointed acting district attorneys. All over this country they have appointed acting this and acting that. They appoint these men to office who they know will not be confirmed by this body, and they let them hold office as long as this body is in session, and when this body is out of session then they know that they have not been confirmed, and therefore they appoint somebody else to serve during the period of the recess and during the term the next Congress sits. It has become a practice by some manner of artifice, and it is a fraud against the law.

The law provides that these names shall be sent in, in some cases, as soon as it is possible to send them in; but instead of sending them to the Senate as soon as is possible, statements are published in the newspapers over the signatures of these bureaucrats in which they state that they do not intend to send the names to the Senate because they will not be confirmed, and therefore they let the officials hold office until Congress adjourns.

Mr. TYDINGS. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. TYDINGS. I should like to ask the Senator from Louisiana whether or not he knows of anyone in the Senate who is opposed to the amendment.

Mr. LONG. I asked the Senator from Mississippi, and he stated that he was.

Mr. TYDINGS. The Senator from Mississippi was opposed to it not on its merits or demerits but because he did not want to have it attached to the National Recovery Administration joint resolution, as I understand.

Mr. HARRISON. Mr. President——

The VICE PRESIDENT. Does the Senator from Louisiana yield; and if so, to whom?

Mr. LONG. I yield to the Senator from Mississippi.

Mr. HARRISON. I stated that I did not want to have it considered in view of present circumstances. I think the committee of which I am a member reported such a provision at one time, but we are anxious to get the N. R. A. legislation behind us, and for that reason I dislike very much to have the amendment brought up at this time.

Mr. TYDINGS. I did not mean to say that the Senator from Mississippi was opposed to it on its merits. I understood he was opposed to it because he did not want the joint resolution delayed. I will say to the Senator from Louisiana that from what I can hear I believe the overwhelming majority of the Senate wants this amendment agreed to.

Mr. LONG. Then I will not talk longer.

Mr. TYDINGS. I do not know that to be the case, but, from what I hear from those with whom I have talked, I believe it to be.

Mr. HARRISON. Will not the Senator now let us get to a vote?

Mr. LONG. I have long since learned not to overtalk a case. If the Senate wants to vote, let us have a vote.

The PRESIDING OFFICER (Mr. CLARK in the chair). The question is on the amendment offered by the Senator from Oklahoma [Mr. GORE] to the motion of the Senator from Mississippi to concur in the amendment of the House with an amendment.

Mr. COUZENS. I ask for the yeas and nays.

The yeas and nays were ordered, and the legislative clerk proceeded to call the roll.

Mr. McNARY (when his name was called). Announcing again my pair with the Senator from Arkansas [Mr. ROBINSON], I wish to say that I do not know how he would vote if present. If at liberty to vote, I should vote "yea."

Mr. BARKLEY. I desire to announce the unavoidable absence of my colleague [Mr. LOGAN], the Senator from Mississippi [Mr. BILBO], the Senator from Arkansas [Mr. ROBINSON], the Senator from Missouri [Mr. TRUMAN], the Senator from Illinois [Mr. LEWIS], the Senator from Arizona [Mr. ASHURST], the Senator from Rhode Island [Mr. GERRY], the Senator from West Virginia [Mr. NEELY], and the Senator from Montana [Mr. WHEELER].

Mr. President, I ask for a recapitulation of the vote.

The PRESIDING OFFICER. There has been one recapitulation. Is there objection to the vote being again recapitulated?

Mr. LONG. I object.

Mr. TYDINGS. The request for recapitulation is only for the purpose of delay, so that more votes can be gotten into the Senate Chamber. It is unfair tactics.

The PRESIDING OFFICER. Objection is made.

Mr. HARRISON (after having voted in the negative). I desire to change my vote from "nay" to "yea."

Mr. McCARRAN. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCARRAN. There can be no interruption of the announcement of the result of the roll call, as I understand the rule.

The PRESIDING OFFICER. The Chair understands the rule to be that the Senator has a right to change his vote at any time before the result of the vote is announced.

Mr. McCARRAN. The result should be announced. The change of the Senator from Mississippi has been made.

Mr. GORE. I ask that the result of the vote be announced.

The PRESIDING OFFICER. The Chair understands the rule to be that a Senator can change his mind as often as he desires before the result of the vote is announced.

Mr. GORE. Mr. President, I ask that the result be announced.

The result was announced—yeas 43, nays 38, as follows:

YEAS—43

Adams	Dickinson	McAdoo	Schall
Austin	Donahey	McCarran	Shipstead
Bachman	Frazier	McGill	Smith
Barbour	Gibson	McKellar	Steiwer
Bulow	Glass	Metcalf	Thomas, Okla.
Byrd	Gore	Murphy	Townsend
Capper	Hale	Murray	Trammell
Caraway	Harrison	Norbeck	Tydings
Carey	Hastings	Nye	Vandenberg
Clark	Keyes	Overton	Van Nuys
Couzens	Long	Russell	

NAYS—38

Bailey	Connally	Hayden	Pope
Bankhead	Coolidge	King	Radcliffe
Barkley	Copeland	La Follette	Reynolds
Black	Costigan	Lonergan	Schwellenbach
Bone	Dieterich	Maloney	Sheppard
Brown	Duffy	Minton	Thomas, Utah
Bulkley	Fletcher	Moore	Wagner
Burke	George	Norris	Walsh
Byrnes	Guffey	O'Mahoney	
Chavez	Hatch	Pittman	

NOT VOTING—14

Ashurst	Gerry	McNary	Wheeler
Bilbo	Johnson	Neely	White
Borah	Lewis	Robinson	
Davis	Logan	Truman	

So Mr. GORE's amendment to the motion of Mr. HARRISON to concur in the amendment of the House with an amendment was agreed to, as follows:

SEC. —. (a) Hereafter any person who shall receive under this or any other act of Congress a salary or other compensation at the rate of $4,000 or more per annum shall be appointed by the President by and with the advice and consent of the Senate.

(b) No such person appointed during the recess of Congress shall serve or be paid for a longer period than 60 days after the convening of the next succeeding session of Congress unless appointed and confirmed as provided above, and no such person appointed while Congress is in session shall serve or be paid for a period of more than 60 days nor beyond the adjournment of Congress unless so appointed and confirmed.

(c) No such person appointed under the provisions of this act or the provisions of Public, No. 10, Seventy-third Congress, as amended (Agricultural Adjustment Act), and under the provisions of Public, No. 67, as amended, of the Seventy-third Congress (National Industrial Recovery Act), or paid out of any appropriation made in pursuance of this or any such act or acts shall serve for a period of more than 1 year from the date of his confirmation by the Senate unless reappointed and confirmed as herein provided; and any such person appointed and confirmed hereunder who shall serve or be paid under the provisions of any other act or acts not herein specified shall serve until the end of the administration of the President by whom such person was appointed.

(d) The President shall by Executive order fix the rate of compensation which any such person so appointed and confirmed shall receive and be paid and shall prescribe the official title or designation by which such person shall be known.

(e) Section 1761, Revised Statutes, is hereby reenacted insofar as consistent with the provisions of this section.

Mr. HARRISON. Mr. President, I serve notice that I shall enter a motion to reconsider the vote which has just been taken.

Mr. GORE. Mr. President, is it in order to move to lay that motion on the table?

The PRESIDING OFFICER. The motion has not as yet been entered.

Mr. HARRISON. I have not as yet made the motion.

Mr. LONG. Mr. President, I now move to reconsider the vote by which the amendment was agreed to.

The PRESIDING OFFICER. The question is on the motion of the Senator from Louisiana to reconsider the vote by which the amendment was adopted.

Mr. GORE. I move to lay on the table the motion of the Senator from Louisiana.

RECESS

Mr. BARKLEY. I move that the Senate take a recess.

Mr. TYDINGS. Mr. President——

The PRESIDING OFFICER. A motion has been made to lay on the table the motion to reconsider. That motion is not debatable.

Mr. BARKLEY. I am not debating it. I have a right to move that the Senate recess until tomorrow.

The PRESIDING OFFICER. That motion is in order.

Mr. BARKLEY. I make that motion.

The PRESIDING OFFICER. The Senator from Kentucky moves that the Senate take a recess until what hour?

Mr. TYDINGS. I ask for the yeas and nays.

The PRESIDING OFFICER. The Senator from Kentucky did not state the hour to which he wishes the recess to be taken.

Mr. BARKLEY. Twelve o'clock noon tomorrow.

The PRESIDING OFFICER. The question is on the motion of the Senator from Kentucky that the Senate take a recess until 12 o'clock noon tomorrow. On that motion the yeas and nays are demanded.

The yeas and nays were ordered, and the Chief Clerk proceeded to call the roll.

Mr. MCNARY (when his name was called). Repeating the announcement of my pair, I withhold my vote. If permitted to vote, I should vote "nay."

The roll call was concluded.

Mr. LONG (after having voted in the negative). Mr. President, may I be allowed to change my vote at this time? If Senators want to filibuster, I desire to help them.

The VICE PRESIDENT. The Senator may change his vote at any time before the result is announced.

Mr. LONG. I change my vote from "nay" to "yea."

Mr. BARKLEY. I desire to announce that the following Senators are unavoidably detained from the Senate: The Senator from Mississippi [Mr. BILBO], the Senator from Kentucky [Mr. LOGAN], the Senator from Massachusetts [Mr. COOLIDGE], the Senator from Arkansas [Mr. ROBINSON], the Senator from Missouri [Mr. TRUMAN], the Senator from Illinois [Mr. LEWIS], the Senator from Georgia [Mr. GEORGE], and the Senator from Montana [Mr. WHEELER].

Mr. AUSTIN. The Senator from Pennsylvania [Mr. DAVIS] has a general pair with the Senator from Kentucky [Mr. LOGAN].

The result was announced—yeas 47, nays 37, as follows:

YEAS—47

Bailey	Copeland	Long	Radcliffe
Bankhead	Costigan	McGill	Reynolds
Barkley	Dieterich	Maloney	Russell
Black	Duffy	Minton	Schwellenbach
Bone	Fletcher	Moore	Sheppard
Brown	Guffey	Murphy	Shipstead
Bulow	Harrison	Murray	Thomas, Utah
Burke	Hatch	Neely	Trammell
Byrnes	Hayden	Norris	Van Nuys
Chavez	King	O'Mahoney	Wagner
Clark	La Follette	Pittman	Walsh
Connally	Lonergan	Pope	

NAYS—37

Adams	Carey	Hastings	Smith
Ashurst	Couzens	Keyes	Steiwer
Austin	Dickinson	McAdoo	Thomas, Okla.
Bachman	Donahey	McCarran	Townsend
Barbour	Frazier	McKellar	Tydings
Borah	Gerry	Metcalf	Vandenberg
Bulkley	Gibson	Norbeck	White
Byrd	Glass	Nye	
Capper	Gore	Overton	
Caraway	Hale	Schall	

NOT VOTING—11

Bilbo	George	Logan	Truman
Coolidge	Johnson	McNary	Wheeler
Davis	Lewis	Robinson	

So the motion was agreed to; and (at 4 o'clock and 47 minutes p. m.) the Senate took a recess until tomorrow, Wednesday, June 12, 1935, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES

TUESDAY, JUNE 11, 1935

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Eternal God, we rejoice that we have a Heavenly Father upon earth who will not break the bruised reed; upon whom we can cast our cares and who has infinite compassion toward His erring, sinning children. Vouchsafe to be with the Congress; direct all procedure of government; be our

guest and benefactor. Mercifully enfold us, that we may develop those moral qualities which are so essential to the best type of manly character. Break down all prejudice; help us to guard jealously our language; cleanse us from all secret faults. Graciously bless our homes, make them rich by every possible association that contributes to happiness, refinement, and Christian culture. In the holy name of Jesus. Amen.

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Horne, its enrolling clerk, announced that the Senate had passed without amendment bills and joint resolutions of the House of the following titles:

H. R. 67. An act to repeal certain laws providing that certain aliens who have filed declarations of intention to become citizens of the United States shall be considered citizens for the purposes of service and protection on American vessels;

H. R. 2204. An act for the relief of Robert M. Kenton;

H. R. 2422. An act for the relief of James O. Greene and Mrs. Hollis S. Hogan;

H R. 2466. An act for the relief of John E. Click;

H. R. 2553. An act for the relief of Eva S. Brown;

H. R. 2683. An act for the relief of Henry Harrison Griffith;

H. R. 4448. An act to provide funds for acquisition of a site, erection of buildings, and the furnishing thereof for the use of the diplomatic and consular establishments of the United States at Helsingfors, Finland;

H. R. 4798. An act to authorize the settlement of individual claims of military personnel for damages to and loss of private property incident to the training, practice, operation, or maintenance of the Army;

H. R. 5456. An act relating to the powers and duties of United States marshals;

H. R. 5564. An act for the relief of Capt. Russell Willson, United States Navy;

H. R. 5720. An act to amend the National Defense Act of June 3, 1916, as amended;

H. R. 6371. An act to authorize an increase in the annual appropriation for books for the adult blind;

H. R. 6437. An act to amend Private Act No. 5, Seventy-third Congress, entitled "An act to convey certain land in the county of Los Angeles, State of California";

H. R. 6987. An act authorizing the State of Louisiana and the State of Texas to construct, maintain, and operate a free highway bridge across the Sabine River at or near a point where Louisiana Highway No. 7 meets Texas Highway No. 87;

H. R. 7081. An act to extend the times for commencing and completing the construction of a bridge across the Missouri River at or near Brownville, Nebr.;

H. R. 7781. An act to define the election procedure under the act of June 18, 1934, and for other purposes;

H. J. Res. 26. Joint resolution requesting the President to proclaim October 9 as Leif Erikson Day;

H. J. Res. 27. Joint resolution providing for extension of cooperative work of the Geological Survey to Puerto Rico;

H. J. Res. 204. Joint resolution authorizing the erection of a memorial to the late Jean Jules Jusserand; and

H. J. Res. 285. Joint resolution to permit the temporary entry into the United States under certain conditions of alien participants and officials of the National Boy Scout Jamboree to be held in the United States in 1935.

The message also announced that the Senate had passed, with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H. R. 2739. An act to extend further time for naturalization to alien veterans of the World War under the act approved May 25, 1932 (47 Stat. 165), to extend the same privileges to certain veterans of countries allied with the United States during the World War, and for other purposes;

H. R. 2756. An act authorizing the Tlingit and Haida Indians of Alaska to bring suit in the United States Court of Claims, and conferring jurisdiction upon said court to hear, examine, adjudicate, and enter judgment upon any and all claims which said Indians may have, or claim to have, against the United States, and for other purposes;

H. R. 3512. An act for the relief of H. B. Arnold;

H. R. 6323. An act to provide for the custody of Federal proclamations, orders, regulations, notices, and other documents, and for the prompt and uniform printing and distribution thereof;

H. R. 6836. An act to provide for the printing and distribution of Government publications to the National Archives;

H. R. 7160. An act to provide for research into basic laws and principles relating to agriculture and to provide for the further development of cooperative agricultural extension work and the more complete endowment and support of land-grant colleges; and

H. R. 7982. An act to amend the Migratory Bird Hunting Stamp Act of March 16, 1934, and certain other acts relating to game and other wildlife, administered by the Department of Agriculture, and for other purposes.

The message also announced that the Senate had passed bills and joint resolutions of the following titles, in which the concurrence of the House is requested:

S. 144. An act for the relief of Auston L. Tierney;

S. 203. An act to provide for a preliminary examination of the Connecticut River, with a view to the control of its floods and prevention of erosion of its banks in the State of Connecticut, and for other purposes;

S. 540. An act for the relief of Fred Luscher;

S. 556. An act for the relief of certain disbursing officers of the Army of the United States and for the settlement of individual claims approved by the War Department;

S. 1116. An act authorizing the establishment of a filing and indexing service for useful Government publications;

S. 1146. An act for the relief of Michael Dalton;

S. 1179. An act for the relief of James H. Smith;

S. 1186. An act for the relief of Frank P. Ross;

S. 1409. An act for the relief of the General Baking Co.;

S. 1448. An act for the relief of certain claimants who suffered loss by fire in the State of Minnesota during October 1918;

S. 1453. An act to create a Board of Shorthand Reporting, and for other purposes;

S. 1490. An act for the relief of Earl A. Ross;

S. 1613. An act for the relief of Andrew J. McCallen;

S. 1730. An act for the relief of the Richmond, Fredericksburg & Potomac Railroad Co.;

S. 1865. An act for the relief of W. S. O'Brien;

S. 1893. An act to restore to the public domain portions of the Jordan Narrows (Utah) Military Reservation;

S. 1968. An act authorizing an appropriation for payment to certain bands of Ute Indians in the State of Utah for certain coal lands, and for other purposes;

S. 2001. An act to amend section 4426 of the Revised Statutes of the United States, as amended by the act of Congress approved May 16, 1906;

S. 2010. An act to improve the living accommodations on vessels under 100 tons;

S. 2074. An act to create a National Park Trust Fund Board, and for other purposes;

S. 2169. An act for the relief of certain disbursing officers of the Army of the United States;

S. 2206. An act for the relief of the State of New Mexico;

S. 2278. An act authorizing the construction of buildings for the United States representatives in the Philippine Islands;

S. 2286. An act providing for the allocation of net revenues of the Shoshone power plant of the Shoshone reclamation project in Wyoming;

S. 2388. An act authorizing and directing the Secretary of the Interior to cancel patent in fee issued to Victoria Arconge;

S. 2406. An act for the relief of Nancy Jordan;

S. 2421. An act to amend the act entitled "An act forbidding the transportation of any person in interstate or foreign commerce, kidnaped or otherwise unlawfully detained, and making such act a felony", as amended;

S. 2508. An act to authorize the naturalization of certain resident alien World War veterans;

S. 2521. An act amending section 5 of Public Law No. 264, Seventy-third Congress, approved May 29, 1934, relative to the appointment of Naval Academy graduates as ensigns in the Navy;

S. 2545. An act to provide funds for acquisition of the property of the Haskell Students Activities Association on behalf of the Indian school known as "Haskell Institute", Lawrence, Kans.;

S. 2556. An act to amend and supplement the steering rules respecting orders to helmsmen on all vessels navigating waters of the United States, and on all vessels of the United States navigating any waters or seas, in section 1 of the act of August 19, 1890, section 1 of the act of June 7, 1897, section 1 of the act of February 8, 1895, and section 1 of the act of February 19, 1895;

S. 2611. An act to authorize the Utah Pioneer Trails and Landmarks Association to construct and maintain a monument on the Fort Douglas Military Reservation, Salt Lake City, Utah;

S. 2626. An act to authorize the sale of Federal buildings;

S. 2649. An act to provide for a recreation area within the Prescott National Forest, Ariz.;

S. 2715. An act conferring jurisdiction on the Court of Claims to hear and determine the claims of the Choctaw Indians of the State of Mississippi;

S. 2737. An act authorizing the erection in the District of Columbia of a suitable terminal marker for the Jefferson Davis National Highway;

S. 2743. An act to authorize the erection of a suitable memorial to Maj. Gen. George W. Goethals within the Canal Zone;

S. 2761. An act conferring jurisdiction upon the Court of Claims to hear and determine claims of certain bands or tribes of Indians residing in the State of Oregon;

S. 2774. An act for the relief of certain officers on the retired list of the Navy and Marine Corps, who have been commended for their performance of duty in actual combat with the enemy during the World War;

S. 2779. An act to authorize the conveyance of certain lands in Nome, Alaska;

S. 2780. An act to repeal the limitation on the sale price of the Federal building at Main and Ervay Streets, Dallas, Tex.;

S. 2832. An act to provide a preliminary examination of Goldsborough Creek, in Mason County, State of Washington, with a view to the control of its floods;

S. 2846. An act authorizing the Secretary of the Navy to accept on behalf of the United States the devise and bequest of real and personal property of the late Paul E. McDonnold, passed assistant surgeon with the rank of lieutenant commander, Medical Corps, United States Navy, retired;

S. 2865. An act to amend the joint resolution establishing the George Rogers Clark Sesquicentennial Commission, approved May 23, 1928;

S. 2889. An act to authorize settlement, allowance, and payment of certain claims;

S. 2891. An act to provide for the adjustment and settlement of personal injury and death cases arising in certain foreign countries;

S. 2965. An act to amend the Hawaiian Homes Commission Act of 1920;

S. 2966. An act to empower the Legislature of the Territory of Hawaii to authorize the issuance of revenue bonds, to authorize the city and county of Honolulu to issue flood-control bonds, and for other purposes;

S. 2993. An act for the relief of Carrie Price Roberts;

S. J. Res. 112. Joint resolution extending the effective period of the Emergency Railroad Transportation Act, 1933;

S. J. Res. 122. Joint resolution granting the consent of Congress to the States of New York and Vermont to enter into an agreement amending the agreement between such States consented to by Congress in Public Resolution No. 9 (70th Cong.), relating to the creation of the Lake Champlain Bridge Commission;

S. J. Res. 132. Joint resolution to create a commission to determine a suitable location and design for a memorial to the men and women who have been notable or may become notable in the history of the United States; and

S. J. Res. 139. Joint resolution requesting the President to extend to the International Statistical Institute an invitation to hold its twenty-fourth session in the United States in 1939.

COMMITTEE ON AGRICULTURE

Mr. JONES. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture may sit during the sessions of the House during the remainder of the week.

Mr. SNELL. Mr. Speaker, is the gentleman's request for the committee just to sit during sessions for the remainder of the week?

The SPEAKER. That is all. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. SNELL. Mr. Speaker, would it be proper for me to ask the Chairman of the Committee on Agriculture if he expects to bring up the A. A. A. amendments this week? This is a matter in which a great many people are very much interested.

Mr. JONES. Answering the gentleman from New York, Mr. Speaker, I think we hope to, but there are a number of matters that have to be very carefully considered, and it is impossible to set an exact or definite date.

Mr. SNELL. But it will be a couple of days at least?

Mr. JONES. It probably will be.

PERMISSION TO ADDRESS THE HOUSE

Mr. NICHOLS. Mr. Speaker, I ask unanimous consent to address the House for 10 minutes; and I may say that my remarks will be directed to a condition in which I think the House is interested; that is, the cause for the present taxicab strike, which I ask the privilege of discussing.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

Mr. DOUGHTON. Mr. Speaker, I object.

Mr. GOLDSBOROUGH. Mr. Speaker, I ask unanimous consent to address the House for 5 minutes.

Mr. NICHOLS. Mr. Speaker, I make the point of order that a quorum is not present.

Mr. GOLDSBOROUGH. Mr. Speaker, I hope the gentleman will not press his point of order.

Mr. NICHOLS. Mr. Speaker, I withdraw the point of order for the time being.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

RENEWAL OF LOANS TO BANK OFFICIALS

Mr. GOLDSBOROUGH. Mr. Speaker, the House of Representatives, in the omnibus banking bill, extended for 5 years from June 16, 1933, the time within which existing loans made by member banks to their executive officers could be paid. This bill has not passed the Senate, and the situation is such that unless we carry out the purpose expressed by the House in the omnibus banking bill before June 16, these executive officers who owe money to banks will have to resign or, if they do not resign, will be subjected to fine or imprisonment.

I have talked with the Speaker, and he has agreed to recognize me for the purpose of asking unanimous consent to pass a resolution I have just introduced and which is worded exactly as the corresponding language in the bill which passed the House. The language of the banking bill which passed the House is as follows:

Provided, That loans made to any such officer prior to June 16, 1933, may be renewed or extended for periods expiring not more than 5 years from such date where the board of directors of the member bank shall have satisfied themselves that such extension or renewal is in the best interest of the bank and that the officer indebted has made reasonable effort to reduce his obligation, these findings to be evidenced by resolution of the board of directors spread upon the minute book of the bank.

This language from that bill is embodied in the joint resolution I shall ask unanimous consent to consider.

Mr. Speaker, I ask unanimous consent to consider the House joint resolution I have just introduced.

The SPEAKER. The gentleman from Maryland asks unanimous consent for the consideration of the bill which the Clerk will report.

The Clerk read as follows:

House Joint Resolution 320, to extend from June 16, 1935, to June 16, 1938, the period within which loans made prior to June 16, 1933, to executive officers of member banks of the Federal Reserve System may be renewed or extended

Resolved, etc., That subsection (g) of section 22 of the Federal Reserve Act is hereby amended by striking out "*Provided*, That loans heretofore made to any such officer may be renewed or extended not more than 2 years from the date this paragraph takes effect, if in accord with sound banking practice" and inserting in lieu thereof "*Provided*, That loans made to any such officer prior to June 16, 1933, may be renewed or extended for periods expiring not more than 5 years from such date where the board of directors of the member bank shall have satisfied themselves that such extension or renewal is in the best interest of the bank and that the officer indebted has made reasonable effort to reduce his obligation, these findings to be evidenced by resolution of the board of directors spread upon the minute book of the bank."

The SPEAKER. The gentleman from Maryland asks unanimous consent for the immediate consideration of House Joint Resolution 320. Is there objection?

Mr. SNELL. Mr. Speaker, reserving the right to object to ask the gentleman a question, as I caught the purport of the resolution as read, it simply extends the time within which loans made by officers from their banks previous to June 16, 1933, may be paid.

Mr. GOLDSBOROUGH. That is correct.

Mr. SNELL. And it is sought to put through this joint resolution at this time on the theory that it would not be possible for the banking bill to become a law prior to June 16, when it will be necessary to take action on these loans under existing law.

Mr. GOLDSBOROUGH. That is correct, and I might add that the House committee waited until the Senate committee had acted so that the language of this resolution is exactly the same as that contained in the resolution this morning reported to the Senate by the Senate Committee on Banking and Currency.

Mr. SNELL. I most certainly favor the purpose of this resolution.

Mr. COLDEN. Mr. Speaker, reserving the right to object, I would like to ask the gentleman from Maryland if this is legal. I am not trying to bring this class of loans under the provisions of the law. Is not this in effect giving the bankers a special privilege not enjoyed by the customers of the bank?

Mr. GOLDSBOROUGH. No. When the omnibus banking bill was passed in 1933 we inserted therein a provision that executive officers could not borrow from banks by whom they were employed. Previously they had had the right to do that.

Mr. COLDEN. I understand.

The SPEAKER. Is there objection to the present consideration of the joint resolution?

There was no objection.

The House joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Mr. NICHOLS. Mr. Speaker, I ask unanimous consent to address the House for 10 minutes.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

Mr. DOUGHTON. Mr. Speaker, reserving the right to object—and I shall not object, but I serve notice now that unless there is a special occasion I shall object to any other unanimous-consent request to address the House.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. NICHOLS. Mr. Speaker, Washington today, according to reports in the newspapers, is the host to some 100,000 Shriners. When they reached town officially yesterday morning they were confronted with a taxicab strike, and before the cabs went back on the streets their rates were raised, in some instances double. I think that the House is entitled to know a little of the history as to what brought about this situation. Of course, these gentlemen came to Washington after Washington asked them to come here and had given them inducements to come. May I say here and now that I am not a Shriner and do not belong to any branch of the Masonic order, so it is not a fraternal matter with me. It is simply principle.

The great hospitable city of Washington gets guests here and then hikes the prices on them, and I refer to taxicabs at least. I do not know whether they hiked the rates on anything else or not. The reason the rates of the taxicabs were hiked was that the Diamond Cab Co. and the Union Cab Co. of this city got together night before last on the Diamond Cab Co.'s lot. They were called together by one Mr. Hohensee, who is chairman of a strike committee. He called all of the Diamond drivers and all of the Union Cab drivers in and said: "Now the Shriners are in town. There is going to be 100,000 people here. Now is the time to strike." So accordingly they struck yesterday morning, and they sent these Diamond cabs all over the streets of Washington, and their drivers forced the drivers of other cabs to the curb and threatened them with bodily violence if they did not park their cabs and refuse to haul passengers.

The excuse for this was that it was due to an article that was carried in one of the Washington papers, and I want to read the article.

Talk back to any taxi driver who takes you for a Shriner and tries to overcharge you, is the advice of People's Counsel W. A. Roberts on the eve of the big Shrine convention.

Roberts' comment was made on a report from the News that cabmen are threatening to charge customers by the hour for ordinary rides; that is, that after stepping in a taxi you'll be told the rate is by the hour and you'll have to pay for an hour or half hour, no matter how short the ride.

ONLY 22 GIVEN O. K.

Roberts says:

1. No taxi is permitted to charge by the hour when a customer names a destination within the District of Columbia.

2. Only 22 out of Washington's 3,800 zone cabmen will be permitted legally to raise their zone rates for the Shrine convention.

3. Hack inspectors will be on duty during Shrine week, watching out for cabmen who are attempting to overcharge or overcharging.

The 22 drivers who will be permitted to charge higher rates filed request for this change 10 days ago. Under Public Utilities Commission regulations, no such change is legal without 10 days' notice; so the remaining 3,778 couldn't do anything about it now if they tried.

That is the message that the Shriners got. They were assured that there were only 22 that could charge over the prescribed rate.

Mr. BLANTON. Will the gentleman yield?

Mr. NICHOLS. I yield to the gentleman from Texas.

Mr. BLANTON. In addition to the 100,000 Shriners there are 200,000 friends of Shriners who are here as visitors. Outside of the 22 cabs that gave notice of raises in compliance with law, every other cab raising charges is violating the law and their license ought to be taken away from them and they should not be allowed to run on the streets of Washington again.

Mr. NICHOLS. If the gentleman will permit, I want to suggest that and read the law.

Mr. RANKIN. Will the gentleman yield?

Mr. NICHOLS. I yield to the gentleman from Mississippi.

Mr. RANKIN. Is not the Public Utilities Commission in on this conspiracy?

Mr. NICHOLS. I am going to cite the facts to the Members of the House and they may draw their own conclusion as to whether the Public Utilities Commission is in on the conspiracy or not.

Mr. RANKIN. They invited the Shriners Convention to come here, and one of the inducements held out to them was the cheap cab fare in the District of Columbia. Then as soon as they arrived this fake strike and this advance in fare took place.

I am told that two conventions that were to come here later in the fall have canceled their engagement and will not come to Washington as a result of this trouble.

Mr. NICHOLS. The excuse given by the chairman of the strike committee calling the strike was because this man Roberts, whose article I have just read, slandered the taxicab drivers. The only taxicab drivers involved were the drivers of the Diamond and Union Taxicab Cos., and they are the only ones involved to date, because they are the only ones who hiked their rates.

I want to read what our great Commission down here said in preparing to lay a foundation in order to let these highjackers highjack the Shriners that are in town. The drivers have done this legally by the help of the Commission, your Commissioners of the District of Columbia. I want to read you their flimsy order.

The Commission, on advice from the press that a general taxicab strike had been called and that there were no cabs operating, set forth immediately to contact the drivers and representatives and other principals for the purpose of ascertaining the true situation. A meeting was promptly called, attended by drivers of practically each organization—independents as well as the spokesmen of the union. A full opportunity was given to all to express their views. Briefly, it may be said that a substantial number of the operators resented certain publications, and, likewise, saw the necessity for existing rates, to a limited measure, to be increased.

May I say also that when the cab drivers went before the Commissioners, they went there primarily for the purpose of adjusting the differences between the strikers, but when they got there the meeting immediately turned into a rate-fixing schedule hearing, and nothing else. All that was discussed there was the matter of rates.

This order reads further, as follows:

The regulation of taxicab rates in the District of Columbia has been recognized as lacking in legal authority. The Commission, recognizing this situation, at the last session of Congress requested that if the meter prohibition was to continue, its hand be strengthened so that it might be enabled to bring about a uniform system of zones and rates. Fortunately the two Houses have seen fit to adopt this viewpoint.

This is the Commission talking—

The measure has gone through conference, and it is contemplated that it will become law at an early date.

They are talking about a measure which they say will give them the authority. I hope the conference will report the bill out.

Mr. BLANTON. That bill is in the White House for signature now.

Mr. NICHOLS. If the President signs it, then maybe they have the authority. I will not read all of this. They simply state that they are forced to let the taxicabs raise their rates from the 20-30-50-70 schedule to 20-40-60-80. That is the order of the Commission. However, if you go out on the street you will find that the cabs that have raised their rates have raised them even in excess of what the Commission said they could charge. They are now charging 35-50-70-90.

Now, let us see what cab companies wanted this. The Diamond Co. and the Union Cab Co. raised their rates. Let us see who did not raise their rates. And may I say that the boys in the press gallery can do the city of Washington a great service and they can do the Shriners a great service if they will have published in their papers in the next edition today the names of the taxicabs that will ride the Shriners over the streets of the city of Washington without a raised rate and the names of the highjackers that are charging the higher rates? I would like to give the names of those cabs.

[Here the gavel fell.]

Mr. RANKIN. Mr. Speaker, I ask unanimous consent that the gentleman may proceed for 5 additional minutes.

Mr. NICHOLS. I can finish in that time.

Mr. DOUGHTON. Mr. Speaker, we agreed on 10 minutes.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

Mr. DOUGHTON. I shall not object.

Mr. RANKIN. Mr. Speaker, to be perfectly frank, in my opinion we should have adjourned today out of deference to the Shriners who are here, and if we cannot get this extra time for the gentleman from Oklahoma to discuss this mistreatment of them, I am going to move to adjourn.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. NICHOLS. I want to give you the names of the companies that have not raised their rates at all and have met together and agreed not to raise them:

The Bell Cab Association, the Blue Light Cab Association, the American Cab Association, the City Cab Association, the Premier Cab Association, the Harlem Cab Association, the General Cab Association, the Minute Cab Association, and the Yellow Cab Association. None of these associations has raised its rates.

Mrs. JENCKES of Indiana. Mr. Speaker, will the gentleman yield?

Mr. NICHOLS. I cannot yield now, as I have not the time.

Let us see about the law and authority for this and how these boys happened to do it. I am reading now from title XXVI of the Code of Laws of the District of Columbia, section 46:

Every public utility shall file with the Commission, within a time to be fixed by the Commission, schedules, which shall be open to public inspection, showing all rates, tolls, and charges which it has established—

And so forth. Now, listen to section 50 of the same title:

No change shall be made in any schedule, including schedules of joint rates, except upon 10 days' notice to the Commission.

Now, remember that the cab men went to the Commissioners yesterday and on 30 minutes' notice their rates were raised. Now, listen to a further reading of this section:

And all such changes shall be plainly indicated upon existing schedules, or by filing new schedules in lieu thereof 10 days prior to the time the same are to take effect: *Provided*, That the Commission, upon application of any public utility, may prescribe a less time within which a reduction may be made.

The only exception to the law where it provides for 10 days is that they can set a lesser time if the company wants to reduce its rates and not raise them, and I say to you that the Public Utility Commissioners of the District of Columbia, when they permitted these hijacking cab drivers to go in and hike these rates, did so contrary to law, and every one of them is guilty of a penal offense.

Mr. MAY. Mr. Speaker, will the gentleman yield?

Mr. NICHOLS. Let me finish my statement first.

They say they have not any authority——

Mr. MAY. I think I can give the gentleman some information.

Mr. NICHOLS. In just a moment, please.

Now, let us see about their authority and what they can do to these fellows if the government of the District of Columbia wants to do anything about it, and if the city of Washington wants to treat its guests as they should be treated. Listen—

If any public utility or any agent or officer thereof—

This is section 106 of the same title—

shall, directly or indirectly, by any device whatsoever, or otherwise, charge, demand, collect, or receive from any person, firm, or corporation a greater or less compensation for any service rendered or to be rendered by it in or affecting or relating to the conduct of a street railroad, or street railroad corporation, common carrier, gas plant * * * or for any service in connection therewith than that prescribed in the public schedules or tariffs then in force or established as provided herein, or than it charges, demands, collects, or receives from any other person, firm, or corporation other than one conducting a like business for a like and contemporaneous service, such public utility shall be deemed guilty of unjust discrimination, which is hereby prohibited and declared to be a misdemeanor and unlawful, and upon conviction thereof shall forfeit and pay to the District of Columbia not less than $100 nor more than $1,000 for each offense; and such agent or officer so offending shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than $50 nor more than $100 for each offense.

I say to you, in all frankness, it is a crying outrage that the Commissioners of the District of Columbia would per-

mit this to be perpetrated on the guests of the city of Washington, and while I have no interest in the taxicabs and do not give a whoop about them one way or the other, I hope you gentlemen will tell your friends about the situation and I say to you that there ought to be a boycott started today on the Diamond Cab Co. and on the Union Cab Co. [Applause.]

[Here the gavel fell.]

STATUE OF HANNIBAL HAMLIN

Mr. HAMLIN. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD by inserting the proceedings in Statuary Hall, held on yesterday, Monday, June 10, 1935, in connection with the unveiling of the statue of Hannibal Hamlin, of Maine.

The SPEAKER. Is there objection to the request of the gentleman from Maine?

There was no objection.

Mr. HAMLIN. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following exercises at the unveiling of the statue of Hannibal Hamlin, Statuary Hall, the Capitol, June 10, 1935:

Invocation by Dr. James Shera Montgomery.

The statue was unveiled by Miss Martey Lou Denton.

PRESENTATION OF STATUE BY HON. SIMON M. HAMLIN

Mr. HAMLIN. My friends, last week the House and Senate by resolution accepted a great gift. It is my happy privilege, because of the enforced absence of Hon. Louis J. Brann, Governor of the State of Maine, to present the statue of a great and good man, Hannibal Hamlin—but Hannibal Hamlin is but half his name—he was Hannibal Hamlin of Maine.

Hannibal Hamlin did not get all of his goodness from the good blood of the Hamlins, the Washburns, and the Livermores. I love to think he got a part of his goodness from the hills and mountains of Oxford County and northern Maine where as a boy he fished and hunted and saw the pines and the oaks of Maine grow stronger in the storm.

Yes; Maine's outdoors was near this man and the pure air from the northern hills made him strong and right in body and soul. This man never traded with wrong. We need more of his stuff in these days. He had the brains and the common horse sense to see what to do, and the courage and backbone to do it.

I love to think of Hannibal Hamlin. He was one of our very best. I love to think of him as he lived in Congress, and during his whole life. We do not have to skip any place in the life of Hannibal Hamlin; we can look at his life all of the way through. He had the brains and the heart and the good sense to know what to do, and to do it. Let me quote from Eben Holden, who says:

"He allus kept his tugs tight, never swore less 'twas necessary, er lied in a hoss trade, er ketched a fish bigger'n 'twas, gone off somewhere."

It must be a good land where he can be happy.

It is with great regret that I have to say Hannibal Hamlin, Jr., of Ellsworth, Maine, cannot be present today because of the fact he is today receiving the degree of doctor of law at Boston University, Boston.

Yes; it must be a good home, for Hannibal Hamlin deserved one, and so you have the picture of him just as he was. I love to think of him just as he was. It does me good. Nature can say to all the world: "This was a man."

Now, Senator WHITE, I want to present to you this statue of a man who represented the very best traditions of New England and of all Maine. I present to you the statue of Hannibal Hamlin, of Maine. [Applause.]

ACCEPTANCE OF STATUE BY SENATOR WALLACE H. WHITE, JR., OF MAINE

Senator WHITE. Mr. Chairman, I have the honorable privilege to officially appraise you that the Congress of the United States by appropriate resolution has accepted this statue and has addressed to the State of Maine its thanks for the contribution thereof. With this official sanction, Hannibal Hamlin stands here as Maine's representative in this National Hall of Fame.

No citizen of our State was ever more worthy of this distinction. His life was exemplary. His public career was distinguished.

He served the State of Maine in this legislative body, and he served the Nation as a Member of the House of Representatives, and as a United States Senator, as a first resident of the United States, and as a minister to a foreign nation.

The people and the Nation that are without shrines, temples, statues, and monuments are without reverence for the uplifting influence of the past. They are without present ideals.

May we not know that this statue of Hannibal Hamlin will tell to the countless thousands of Americans who pass and repass through this hall the story of the useful, courageous, and honorable life devoted to mankind, to his State, and to his Nation. May we not know that to them all Hannibal Hamlin always served as an example and as an inspiration.

The State of Maine takes great pride that this son of her's is to stand in this hallowed spot. I, with such authority as I have, accept in behalf of the Congress of the United States, this contribution from our native State.

[Applause.]

Mr. HAMLIN. We will hear from Hon. RALPH O. BREWSTER, "The Representative."

ADDRESS BY HON. RALPH O. BREWSTER, "THE REPRESENTATIVE"

Mr. BREWSTER. As the Representative from the district from which Hannibal Hamlin first came to Congress, to the Congress of the United States and as a former Governor of Maine, in which position Hannibal Hamlin was privileged to serve for one brief month, it is a privilege to speak upon his service as a Representative and Governor in the very brief time that may be allotted here.

There are assembled this morning in this hall, dedicated by the Nation, those men who have been selected by their several States in the course of a century of strife and service, in this most historical spot, speaking so eloquently of what America has been, speaking to us with their glorified example of the America that shall be if we shall be true and worthy of the sacrifice of their lives.

Coming to Congress in the years preceding that great strife between the States, when America was entering that period of foment from which the Union finally emerged triumphant, Hannibal Hamlin was tested as were few men before our people.

He, without curb on his thoughts, guided by his principles, and by ties of no kind, coming here under the name of the party which was then dominant, he found himself led inevitably by the events of those days, ultimately to transfer his allegiance to that new party dedicated to the principle of the Union as we now know it; and we may with profit read his history and follow the principles to which he dedicated his great life.

It is too easy to forget the trials which were visited upon the leaders of those days, as we sit here in the glow of this dedication and think only of the honors and the triumphs that ultimately crowned his days.

We shall do well to remind ourselves that if we are worthy of his service we too shall follow along the path he trod so well and be ready ourselves to sacrifice those things that we may seem temporarily to hold most dear in order that this Nation in this day shall have that new birth of freedom for which they were ready then to sacrifice their lives.

In those early years in the lower House of Congress he indicated clearly by his course his determination that this Union triumphant should go on to that service which we still see plainly marked upon the banners of our day. It is for us, his descendants, spiritually and patriotically, to be rededicated to determine that the America founded by our Pilgrim Fathers, preserved by the sacrifices of these men under his leadership shall not perish from the earth, but that America shall go on as an example of democratic progress for the service of mankind. [Applause.]

Mr. HAMLIN. The next is "The Senator", Hon. FREDERICK HALE, United States Senator.

ADDRESS, "THE SENATOR", BY HON. FREDERICK HALE, UNITED STATES SENATOR FROM MAINE

Senator HALE. When in 1881 Hannibal Hamlin retired from the United States Senate my father succeeded him in that body. My grandfather, Senator Chandler, of Michigan, was for many years his colleague in the Senate and one of his most intimate friends. His son, Hannibal Hamlin, was for many years my father's law partner and is my very dear friend. It is, therefore, with real pleasure that I rise today to pay a brief but sincere tribute to the memory of one of the best loved and most honored statesmen that my State has produced.

As a boy I was a frequent visitor with my father and mother at the Hamlin home in Bangor where Mr. Hamlin spent the last years of his life, and I can well remember the reverence and awe in which my brothers and I held this great survivor of the Civil War period.

I have been selected today to speak briefly of Mr. Hamlin's career in the Senate, in which body he was elected as a Democrat in 1848. He was then 39 years of age. Serving in the Senate at that time were Webster, Clay, Calhoun, Benton, Sumner, Douglas, and other giants of their day. Among these Titans he rapidly found his place, and an important place it was. His long experience in the legislature of his State, in which body he served three successive terms as speaker, together with his active experience in the National House of Representatives, gave him a knowledge of parliamentary law perhaps unequaled in the Senate, and he became an authority on that subject. His knowledge of the problems of business, his sound native judgment, and his fearless honesty made him a potent figure in the councils of his party and in the country at large. He spoke seldom on the floor of the Senate, but when he did speak he spoke powerfully and to the point and his speeches were always effective. He was given the chairmanship of the important Committee on Commerce.

Thus, early in his senatorial career established as one of the coming men of his party, it was a great shock to that party when immediately after the renomination of President Buchanan in 1856 Senator Hamlin announced that he could not support Mr. Buchanan, that he was permanently at odds with his party on the question of slavery, and that he would not stand for the repeal of the Missouri Compromise. He resigned from the chairmanship of the Committee on Commerce, and shortly thereafter joined the newly formed Republican Party, which welcomed him with open arms, and he at once became one of the recognized leaders of that party. In 1856, while still a Member of the Senate, he ran for the governorship of Maine on the Republican ticket and was triumphantly elected, many of the old-line Democrats of his State going over to the new party with him. A few months later the Maine Legislature again elected him to the Senate, where he

remained until his election to the Vice Presidency in 1860. In 1869 he was again elected to the Senate, and served there until his voluntary retirement from public life in 1881. During this latter period of service he held for a number of years the chairmanship of the Committee on Foreign Relations.

Maine is singularly fortunate in the list of great statesmen that she has given to the country. I think that no one of them better typifies the Maine ideal of what a stateman should be than Hannibal Hamlin.

It is with grateful recognition of his sterling service to his State and his country that we place his statue in the Hall of Fame of the Nation's Capitol today.

[Applause.]

Mr. HAMLIN. The next is "The Vice President", Hon. Charles S. Hamlin.

ADDRESS, "THE VICE PRESIDENT", BY HON. CHARLES S. HAMLIN

Mr. HAMLIN. Mr. Chairman, honorable Members of Congress and the Senate of the United States, ladies, and gentlemen, first I want to express the very deep regret that Hannibal Hamlin, of Ellsworth, Maine, is unable to be here because of circumstances beyond his control.

I regard it as a great honor to be permitted to participate in this celebration this morning in honor of this great American. It is unnecessary to say much about his public life, because if you wish to know his public life you only have to read the history of our great country; it is there inscribed.

During the extent of his life he saw many changes in our Government and constitutional system. For example, in the early days in treaties, when the United States was named, it was always followed by the word "are", looking upon the United States as a federation of individual States, whereas today, in modern treaties the United States is always followed by the singular verb, "is", and the United States is accepted as the grand united, universal, National Government. There have been very many changes since Hannibal Hamlin's days in this great historic State of Maine.

I remember visiting the Vice President during the administration of President Hayes. He was then living at the Willard Hotel, and the night before I left, he asked me if there was anything I had not seen that I desired to see in Washington. More in jest, I said I would like to call on President and Mrs. Hayes at the White House. He looked at me a moment, and said, "Young man, put on your coat and come on."

That night, in the cold, we walked over to the White House and in 3 minutes we were sitting in the room received by the President and Mrs. Hayes. We spent the whole evening there. Mrs. Hayes asked me if I would not like to see the East Room. Of course I said I should be delighted. She ordered the room lighted and took my arm and paraded around the East Room with me. I shall never forget that night, and that beautiful woman. I always think of her when I think of Hannibal Hamlin.

Hannibal Hamlin's ancestor, James Hamlin, came to America in the middle of the seventeenth century, and a descendant, Major Hamlin, was a major in the Revolutionary War, and was granted land grants in what was then the District of Maine. This old gentleman, Major Hamlin, I think, had 12 children. He named one Cyrus, one Hannibal, and then the others he named for the continents, Europe, Asia, Africa, and America, and I am a proud descendant of Asia Hamlin.

There is a very interesting story Hannibal Hamlin told me once about his uncle Asia Hamlin. All of the boys went down to work on the grant of land in Maine, and the story he told us is that Asia one day in the wilds of Maine came across a bear. They engaged in a friendly or unfriendly discussion, and soon Asia was disposed to postpone such further debate, but the bear was obdurate. Asia after great pressure would have brought that bear in, but unfortunately he did not, and he moved to adjourn, but the bear would not, but finally Asia made up his mind to move himself up into a tree until the danger was over and then come back to the fatherland in old Massachusetts.

My friends, there is so much that could be said, and so much has been said already by the distinguished gentlemen preceding me, I can only say it is an honor and I am sure you feel it is to all of us, an honor to participate in this celebration in this historical hall, which you remember was once the room of the House of Representatives, where now you see the statues of these great men who were the upbuilders of this great Nation, and our children, and our children's children shall rise up and call their memory blessed. [Applause.]

Mr. HAMLIN. There is just one thing more before the benediction, which I want to tell. It was brought to me by one of the Hamlins of New England that Abraham Lincoln said to Hannibal Hamlin at one time, "You know Hannibal, you are very close to me, because your name is a part of mine. You know mine is Abraham Lincoln, so taking away the first part of Abraham we have ham left, and taking the first part of Lincoln you have lin, so that out of those two names we have the name Hamlin." [Applause.]

ANTISMUGGLING ACT

Mr. DOUGHTON. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 7980) to protect the revenue of the United States, and to provide measures for the more effective enforcement of the law respecting the revenue, to prevent smuggling, to authorize customs enforcement areas, and for other purposes.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union, with Mr. LUDLOW in the chair.

The CHAIRMAN. The House is now in Committee of the Whole House on the state of the Union for the consideration of the bill which the Clerk will report.

The Clerk read the title.

Mr. DOUGHTON. Mr. Chairman, I ask unanimous consent that the first reading of the bill be dispensed with.

The CHAIRMAN. Without objection, it is so ordered.

There was no objection.

Mr. DOUGHTON. Mr. Chairman, H. R. 7980, a bill to protect the revenue of the United States and provide measures for the more effective enforcement of the laws respecting the revenue, to prevent smuggling, to authorize customs enforcement areas, and for other purposes, was referred to the Committee on Ways and Means some days ago and has been very thoroughly and carefully considered by that committee. It is reported by the unanimous vote of the Committee on Ways and Means and so far as I know there is no opposition to the legislation.

Mr. FITZPATRICK. Mr. Chairman, will the gentleman yield for a question?

Mr. DOUGHTON. Yes.

Mr. FITZPATRICK. As I understand, the object of this bill is principally to prevent smuggling of intoxicating liquors into this country.

Mr. DOUGHTON. That is the primary purpose.

Mr. FITZPATRICK. Did the committee consider a bill to permit liquor to come in here free, and to take the duty off it so that we could break up the Whisky Trust, which is far worse than the racketeers or the bootleggers before prohibition was repealed? Did the gentleman's committee take up such a bill as that?

Mr. DOUGHTON. It has not yet.

Mr. FITZPATRICK. We would not have to have this bill if the gentleman's committee would take the duty off liquor and let it come in free so as to break up the Whisky Trust.

Mr. DOUGHTON. That is a matter of opinion which would provoke a great deal of controversy and keep us here for a month. According to the information furnished the Committee on Ways and Means, there are now hovering off the coast of the United States some 40 or 50 vessels ladened with liquor to be illegally smuggled into the United States. Prior to prohibition very little smuggling of contraband liquor into the United States occurred, but during the prohibition era, when liquor was scarce and expensive, the temptation was great to violate the laws of the United States with respect to the manufacture and the sale of liquor. During that time there was a great temptation to smuggle liquor into the United States, and that grew to such proportions that it was necessary to take means to deal with it.

It was expected that when the eighteenth amendment was repealed the smuggling of contraband, illegal liquor, into the United States would cease, or at least be reduced to a minimum. Contrary to expectations, however, the custom has continued, and it is estimated now, upon the best information which the Treasury Department has, that at least two and a half million gallons of alcohol are smuggled annually into the United States. Every gallon of alcohol is supposed to make about two and a half gallons of whisky. Therefore the Treasury is being deprived of internal-revenue tax and customs duties amounting to something like $30,000,000 per annum. This bill is designed to break up and prevent that illicit smuggling of liquor into the United States. Under international law we have a territorial area extending out 3 miles from shore. And we have also a customs area extending out 12 miles.

Under treaties with other nations we have a right of control over smuggling vessels in a sailing distance of 1 hour, but under our own laws we cannot go beyond the 12-mile limit. This is designed to give the President of the United

States authority, when he has the information that smuggling boats are hovering without the 12-mile limit, to declare a customs zone extending farther and to a distance of 50 miles beyond customs waters. At one time when Great Britain was harassed by conditions similar to those now with which we are confronted, she extended her territorial customs jurisdiction a distance of 300 miles. This bill is designed to break up this illicit dealing in contraband liquor and also to protect legitimate commerce. While the smuggling is mainly of contraband or illicit liquor, it is not confined alone to that commodity. Our customs laws are violated with respect to other commodities as well as contraband liquor.

The purpose of this legislation is, first, the establishment of customs-enforcement areas outside the 12-mile limit, thereby giving a more flexible administrative control over enforcement. Second, search and seizure and forfeiture of vessels under certain conditions. Third, enforcement of revenue laws against foreign vessels within the limits authorized by existing treaties, there being at present a gap between our customs control and treaty limits. Fourth, providing a basis for reciprocal legislation by other countries by prohibiting smuggling offenses by our nationals and vessels against revenue laws of foreign countries. Fifth, to provide increased fines and penalties, and for penalizing of acts indicative of smuggling activities not covered by existing law. And sixth, for more effective administrative control over boats of less than 500 net tons and small contact boats.

Mr. COLDEN. Mr. Chairman, will the gentleman yield?

Mr. DOUGHTON. Yes.

Mr. COLDEN. Has the gentleman's committee considered that some countries might perhaps retaliate? I have in mind the case of Mexico retaliating against American fishermen from San Diego and San Pedro. Has that matter been considered by the committee?

Mr. DOUGHTON. The gentleman means that other countries will enact similar legislation against rum-running boats that could leave our shores for illicit purposes?

Mr. COLDEN. I recall complaints from our fishermen who objected to the 12-mile limit, because Mexico followed the same line of action and claimed a certain fishing privilege beyond the 3-mile limit.

It would seem to me rather mixed and interwoven down there in the southwestern part of the United States. I have never gone into the real facts of the case, but I remember hearing it discussed. I wondered whether the committee knew of anything of that sort?

Mr. DOUGHTON. I do not know that that matter was brought to the attention of our committee. It is not thought by those most familiar with the proposed legislation that it will involve us in any international complications. We have the expectation that other countries will be glad to reciprocate and enact similar legislation for the protection of their revenues. One of the purposes of this legislation is to encourage reciprocal legislation and laws by which the nations can cooperate with each other in protecting their revenues against rumrunners and smuggling boats that are violating the laws of our country.

If there are any further questions that anyone has in mind, I will be glad to answer them if I can.

Mr. MASSINGALE. Will the gentleman yield?

Mr. DOUGHTON. I yield.

Mr. MASSINGALE. Suppose we have a treaty with Great Britain, and by the terms of that treaty we have the right of search and seizure within 1 hour's sailing of the United States. Now, if we fix 50 miles as an hour's sailing, does not the gentleman apprehend that we might become involved with Great Britain?

Mr. DOUGHTON. Under international law we have the right to fix the distance as far as reasonably necessary to protect the revenues of the Government. Great Britain fixed its distance, under somewhat similar conditions with which we are now dealing, as far as 300 miles. So Great Britain would not be in a very favorable position to raise a question of that kind.

Mr. MASSINGALE. I do not think the gentleman understood my question. If the treaty should limit it to 1 hour's sailing, would we be safe in fixing an arbitrary distance that might be 2 hours' sailing?

Mr. SAMUEL B. HILL. Will the gentleman yield?

Mr. DOUGHTON. I yield.

Mr. SAMUEL B. HILL. We have treaties with Great Britain and 15 other nations whereby we can go out 1 hour's sailing. This legislation does not modify that. We cannot go beyond that 1 hour's sailing as far as those treaty countries are concerned.

Mr. MASSINGALE. But we can go farther than that as far as other nations are concerned?

Mr. SAMUEL B. HILL. Yes; as far as nations with whom we do not have treaties are concerned.

Mr. CRAWFORD. Will the gentleman yield?

Mr. DOUGHTON. I yield.

Mr. CRAWFORD. Can the chairman at this time give us some information as to how our Coast Guard is equipped with fast speedboats and arms and gunnery, and so forth, for the protection and carrying out of this program?

Mr. DOUGHTON. As I understand it, our Coast Guard now equipped with about 10,000 men. The gentleman must realize how impotent that force would be to deal with rumrunners and smugglers along a coast of 10,000 miles. Our coast extends about 10,000 miles. I understand that the Coast Guard is not able at all to cope with the problem. If it had been, of course, this legislation would not have been necessary. It is on account of their inability to cope with the situation at all or deal with it successfully that this legislation has been necessary.

Mr. CRAWFORD. Does this legislation increase the staff as well as the equipment that they will be supplied with?

Mr. DOUGHTON. No. I do not think it deals with the Coast Guard force at all.

Mr. COLDEN. Will the gentleman yield?

Mr. DOUGHTON. I yield.

Mr. COLDEN. Among those 15 nations which have treaties with this country, recognizing our right to extend our jurisdiction 50 miles, is Mexico included?

Mr. DOUGHTON. I do not think so.

Mr. KENNEY. Will the gentleman yield?

Mr. DOUGHTON. I yield.

Mr. KENNEY. How much more money is this bill going to cost?

Mr. DOUGHTON. Not a cent. It calls for no appropriation.

Mr. FITZPATRICK. Will the gentleman yield?

Mr. DOUGHTON. I yield.

Mr. FITZPATRICK. The Liquor Trust in this country will receive more financial benefit out of this legislation than the Federal Government, will it not?

Mr. DOUGHTON. Oh, that is a matter of opinion. I believe if the gentleman had been a member of our committee and had heard all the testimony with respect to this matter, he would have agreed with the 25 members of our committee. The committee unanimously reported this bill. I do not think our committee is under the control of the liquor trust.

Mr. FITZPATRICK. Oh, I am in favor of the bill, but I would rather see a bill brought in to break up the liquor trust.

Mr. DOUGHTON. I suggest the gentleman should introduce such a bill and have it referred to our committee, and I am sure it will have adequate consideration.

Mr. SAMUEL B. HILL. That would not be germane to the bill that is now under consideration.

Mr. DOUGHTON. I have great sympathy with the desire of the gentleman from New York [Mr. FITZPATRICK] to protect the revenues of the Government.

Will the gentleman from New Jersey [Mr. BACHARACH] now use some time?

Mr. BACHARACH. Mr. Chairman, insofar as the Republican members of the Ways and Means Committee are concerned, there is no objection to this bill at all. They voted to report it out unanimously.

The Chairman of the Committee on Ways and Means has stated that the loss to the Government will be about $30,000,000. My information indicates that the loss may run up as high as $100,000,000, if we do not enact this bill or similar legislation.

I wish to call the attention of the House to the fact that the chief article which is being smuggled into this country by the rumrunners is alcohol, which costs them abroad 25 to 50 cents a gallon. The customs duty on alcohol of 100-proof is $5; but the alcohol which is smuggled into the United States is 190-proof, and the customs duty on such alcohol per gallon is $9.50. The internal-revenue tax is $3.80 per gallon, so the total revenue lost by the Government on a gallon of 190-proof alcohol is $13.30.

Much of the smuggled liquor and smuggled alcohol is afterward cut and a great many more gallons made out of it. As the acting Member on this side, I have received no requests for time. It is up to the chairman of the committee to use whatever time he cares to, because, so far as I know, there will be no further speeches on this side.

Mr. SAMUEL B. HILL. The gentleman has no further requests for time?

Mr. BACHARACH. I have no further requests for time on this side.

Mr. DOUGHTON. The Clerk may read.

The Clerk read as follows:

SECTION 1. (a) The President is authorized, whenever he finds that any vessel or vessels hover or are being kept off the coast of the United States at any place or within any area on the high seas adjacent to but outside customs waters and that, by virtue of the presence of any such vessel or vessels at such place or within such area, the unlawful introduction or removal into or from the United States of any merchandise or person is being or may be occasioned, promoted, or threatened, to declare such place or area to be a customs-enforcement area for the purposes of this act. Upon declaration of any such customs-enforcement area, such provisions of law applicable to the high seas adjacent to such customs waters shall apply and be enforced in such area upon any vessel, merchandise, or person found therein, to such extent and under such circumstances as the President finds and declares to be necessary to prevent smuggling, to protect legitimate commerce, or to secure the revenue of the United States.

(b) At any place within a customs-enforcement area the several officers of the customs may go on board of any vessel and examine the vessel and any merchandise or person on board, and bring the same into port, and, subject to regulations of the Secretary of the Treasury, it shall be their duty to pursue and seize or arrest and otherwise enforce upon such vessel, merchandise, or person the provisions of law which are made effective thereto in pursuance of subsection (a) in the same manner as such officers are or may be authorized or required to do in like case at any place in the United States by virtue of any law respecting the revenue: *Provided*, That nothing contained in this section or in any other provision of law respecting the revenue shall be construed to authorize or to require any officer of the United States to enforce any law thereof upon the high seas upon a foreign vessel in contravention of any treaty with a foreign government enabling or permitting the authorities of the United States to board, examine, search, seize, or otherwise to enforce upon such vessel upon the high seas the laws of the United States except as such authorities are or may otherwise be enabled or permitted under special arrangement with such foreign government: *Provided further*, That none of the provisions of this act shall be construed to relieve the Secretary of Commerce of any authority, responsibility, or jurisdiction now vested in or imposed on that officer.

Mr. SAMUEL B. HILL. Mr. Chairman, I offer a committee amendment.

The Clerk read as follows:

Committee amendment:

"SECTION 1. (a) Whenever the President finds and declares that at any place or within any area on the high seas adjacent to but outside customs waters any vessel or vessels hover or are being kept off the coast of the United States, and that by virtue of the presence of any such vessel or vessels at such place or within such area the unlawful introduction or removal into or from the United States of any merchandise or person is being or may be occasioned, promoted, or threatened, the place or area so found and declared shall constitute a customs-enforcement area for the purposes of this act. Only such waters on the high seas shall be within a customs-enforcement area as the President finds and declares are in such proximity to such vessel or vessels that such unlawful introduction or removal of merchandise or persons may be carried on by or to or from such vessel or vessels. No customs-enforcement area shall include any waters more than 100 nautical miles from the place or immediate area where the President declares such vessel or vessels are hovering or are being kept, and notwithstanding the foregoing provision shall not include any waters more than 50 nautical miles outward from the outer limits of customs waters. Whenever the President finds that, within any customs-enforcement area, the circumstances no longer exists which gave rise to the declaration of such area as a customs-enforcement area, he shall so declare, and thereafter and until a further finding and declaration is made under this subsection with respect to waters within such area no waters within such area shall constitute a part of such customs-enforcement area. The provisions of law applying to the high seas adjacent to customs waters of the United States shall be enforced in a customs-enforcement area upon any vessel, merchandise, or person found therein."

Mr. SAMUEL B. HILL. Mr. Chairman, the bill now under consideration was drafted, considered, and reported by the committee before the decision by the Supreme Court in the Schechter case, and this committee amendment, a substitute for section 1a of the bill, makes the language of that section conform to the decision laid down in the Schechter case by the Supreme Court as to standards required in the delegation of power.

Mr. JENKINS of Ohio. Mr. Chairman, will the gentleman yield?

Mr. SAMUEL B. HILL. I yield.

Mr. JENKINS of Ohio. I do not know that I have seen this amendment before, but the gentleman probably remembers I raised a question in the committee about this section.

Mr. SAMUEL B. HILL. I think the gentleman sat in with the subcommittee at the time the amendment was considered and formulated.

Mr. JENKINS of Ohio. I do not recall being present when the final draft of the amendment was adopted. I want to ask now one question I asked of the committee: Does this amendment affect the present 12-mile limit?

Mr. SAMUEL B. HILL. No. The customs area defined by this amendment commences at the outer edge of the present customs waters and extends seaward.

Mr. JENKINS of Ohio. Then it does not touch the 12-mile limit?

Mr. SAMUEL B. HILL. It touches it, yes; but touches the outward edge and extends seaward.

Mr. VINSON of Kentucky. The beginning of the customs area defined in the bill is at the outer edge of the present customs 12-mile limit and extends seaward not more than 50 miles and coastwise possibly 200 miles, 100 miles on each side of the vessel.

Mr. JENKINS of Ohio. But the 200 miles is all outside the 12-mile limit.

Mr. SAMUEL B. HILL. Yes.

Mr. JENKINS of Ohio. Repeal of the establishment of this additional customs area is provided for. Would such a repeal in any way affect the 12-mile limit now existing?

Mr. SAMUEL B. HILL. It does not affect the 12-mile limit at all.

Mr. VINSON of Kentucky. Such repeal would not in any way affect any portion of the 12-mile limit.

The CHAIRMAN. The question is on the committee amendment.

The committee amendment was agreed to.

The Clerk read as follows:

TITLE IV

SECTION 401. When used in this act:

(a) The term "United States", when used in a geographical sense, includes all Territories and possessions of the United States, except the Philippine Islands, the Virgin Islands, American Samoa, and the island of Guam.

Mr. SAMUEL B. HILL. Mr. Chairman, I offer a committee amendment.

The Clerk read as follows:

Committee amendment offered by Mr. HILL of Alabama: Page 33, line 6, after the word "islands", insert the words "Canal Zone."

The committee amendment was agreed to.

Mr. KENNEY. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, this is a drastic law. In some particulars it corresponds largely to the Jones "five-and-ten" law. I do not know just how effective it is going to be. It carries very severe penalties, of course. But penalties do not seem to curb profitable rackets, of which smuggling is but one. The gentleman from New Jersey, my colleague, stated that the Gov-

ernment expects to save $100,000,000 in liquor revenue through the operation of this new law. Very good. Still it is my belief that we shall salvage such a sum only when we make it unprofitable for the smuggler and bootlegger to carry on his racket. We can easily take the profit out of smuggling by reducing the tax on liquor. Then and not till then shall we know that we have conquered the smuggling of liquor. It was brought out casually a few moments ago that the Ways and Means Committee would presently consider the question of a reduction in the liquor taxes and duties. That question should have had preference over that here involved. Action on that score would have been far more effective for our purposes, because we can accomplish by the application of economic law what we can never control by a penal law designed to regulate the habits and morals of our people. Once there is established a sound economic law affecting the liquor traffic, there will be an end of smuggling.

The committee report reads that during prohibition there was very little smuggling. That was because the liquor traffic then was regulated according to economic law.

Mr. DOUGHTON. Mr. Speaker, will the gentleman yield?

Mr. KENNEY. I yield.

Mr. DOUGHTON. Has the gentleman read the report?

Mr. KENNEY. I have; yes.

Mr. DOUGHTON. The committee report says "pre-prohibition days."

Mr. KENNEY. Yes; that is what I had in my mind, exactly; the pre-prohibition period. We were then functioning in economic order. Now, glance for a moment at the question of prohibtion. It is true that moralists initiated the movement, but final action came about through the support of great industrialists, fortified by strong money power emanating from their power houses of money, by means of which they were able to capitalize their idea—their objective—and the objective was to divert the vast moneys employed in the liquor traffic into other channels of business in which they were interested. That is how we got prohibition in this country. But prohibition did not succeed in accomplishing the objective for which it was designed by the industrialists. It was found that we could not successfully regulate the habits and morals of our people, despite heavy and drastic penalties, and consequently there existed an unsurmountable barrier or dam, effecting a stoppage of the flow of moneys from the liquor trade to the business channels for which they were intended. Instead, the taxes that went to the Government, together with the liquor-traffic moneys, found their way into bootleg channels, which were and remained outside the pale of our economic structure. Repeal, in the circumstances, had to come, and when it came through another amendment to the Constitution, which carried after support by President Roosevelt and others versed in the law of economics, prohibition was repealed not upon moral grounds but for economic reasons.

The result was to bring back in large measure to the realm of our economic structure the moneys which had been taken from it by the bootleggers. These moneys began to flow through legal liquor trade and commerce and the Government again was the recipient of its liquor taxes which lifted the burden of public taxation.

Now, we are worrying about losing $100,000,000 on account of the smuggling of liquor into this country, but we close our eyes to the smuggling into this country of millions upon millions of dollars of lottery tickets every year. If we are so concerned with saving money to the Government, why do we not look into the lottery question from its economic side and take action? There are from three to six million dollars a year flowing in lottery channels, foreign and domestic, and these lottery moneys are circulating outside the pale of our economic structure. The moneys will not go into business and trade channels. We cannot get it in. We can prohibit, but we cannot prevent our people from participating in lotteries. The postal laws are drastic; but our citizens go in for sweepstakes, chain letters, and are besides the victims of dishonest lotteries of varying kinds and descriptions. These moneys do not circulate within our economic realm. Vast sums go abroad to foreign countries. Certainly they do not replenish the economic stream of our country. They do not aid our trade or commerce. It has been proven that our penal laws will not attract lottery moneys to our commercial and business life and away from uneconomic uses.

What, then, can he do about it? There is a way. We can tap this available supply of money. It is available to the Government. The only requirement is a legal outlet. The Congress should not delay in bringing the vast lottery treasure within the pale of our economic structure. It can do so by establishing a national lottery in the country to be operated by the Government. The receipts from such a source will bolster the Treasury, lessening the demand for taxes on the trade and business and the taxpayers of this country. It is high time that the Ways and Means Committee and the Members of this House consider and pass my bill for a national lottery. [Applause.] Nearly every foreign country has one. The lottery is sound economically. It has served well in crises in this country during the formation of the Republic. It will serve us now.

[Here the gavel fell.]

The Clerk concluded the reading of the bill.

Mr. DOUGHTON. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. LUDLOW, Chairman of the Committee of the Whole House on the state of the Union, reported that that Committee, having had under consideration the bill (H. R. 7980) to protect the revenue of the United States and provide measures for the more effective enforcement of the laws respecting the revenue, to prevent smuggling, to authorize customs enforcement areas, and for other purposes, had directed him to report the same back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

Mr. DOUGHTON. Mr. Speaker, I move the previous question on the bill and all amendments thereto to final passage.

The previous question was ordered.

The SPEAKER. Is a separate vote demanded on any amendment? If not, the Chair will put them in gross.

The amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PROPOSED AMENDMENT TO SECTION 2 OF THE CLAYTON ACT

Mr. PATMAN. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD and to include therein copy of a bill which I am today introducing.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. PATMAN. Mr. Speaker, I wish to discuss the following bill, which I have introduced:

H. R. 8442

A bill to amend section 2 of the Clayton Act

Be it enacted, etc., That section 2 of the act entitled "An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914, as amended (U. S. C., title 15, sec. 13), is amended to read as follows:

"SEC. 2. (a) That it shall be unlawful for any person engaged in commerce, in the course of such commerce, either directly or indirectly, to discriminate in price or terms of sale between different purchasers of commodities of like grade and quality, where either or any of the purchases involved in such discrimination are in commerce and where such commodities are sold for use, consumption, or resale within the United States or any Territory thereof or the District of Columbia or any insular possession or other place under the jurisdiction of the United States: *Provided*, That nothing herein contained shall prevent differentials in prices as between purchasers depending solely upon whether they purchase for resale to wholesalers, to retailers, or to consumers, or for use for further manufacture; nor differentials which make only

due allowance for differences in the cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which such commodities are to such purchasers sold or delivered: *And provided further,* That nothing herein contained shall prevent persons engaged in selling goods, wares, or merchandise in commerce from selecting their own customers in bona fide transactions and not in restraint of trade.

"(b) That it shall be unlawful for any person engaged in commerce, in the course of such commerce, to pay or grant, or to receive or accept, anything of value as a commission, brokerage, or other compensation to an agent, representative, or other intermediary in connection with the sale or purchase of goods, wares, or merchandise where such intermediary is acting therein for or in behalf or is subject to the direct or indirect control of any party to such purchase and sale transaction other than the person by whom such compensation is so granted or paid.

"(c) That it shall be unlawful for any person engaged in commerce, to pay or contract for the payment of anything of value to or for the benefit of a customer of such person in the course of such commerce, as compensation or in consideration for any services or facilities furnished by or through such customer in connection with the processing, handling, sale, or offering for sale of any products or commodities manufactured, sold, or offered for sale by such person, unless:

"(1) Such payment or consideration is offered on proportionally equal terms to all other customers competing in the distribution of such products or commodities; or unless

"(2) The business, identity, or interests of such customer are in no way publicly associated, by name, reference, allusion, proximity, or otherwise, with or in the furnishing of such services or facilities, and the consideration paid therefor does not exceed the fair value of such services or facilities in the localities where furnished.

"(d) For purposes of suit under section 4 of this act the measure of damage from any violation of this section shall, in the absence of proof of greater damage, be presumed to be the unit amount of the prohibited discrimination, payment, or grant concerned, multiplied by:

"(1) The volume of business involved in such violation in case the plaintiff shall be in competition with the grantor therein in the distribution of the products or commodities concerned.

"(2) The volume of plaintiff's business in the respective products and commodities, and for the period of time concerned in such violation, in case the plaintiff shall be in competition with the grantee therein, or, in cases under paragraph (b) of this section, in competition with the intermediary or with the person for or under whose control such intermediary shall act therein."

THE PURPOSE

This bill is designed to accomplish what so far the Clayton Act has only weakly attempted, namely, to protect the independent merchant, the public whom he serves, and the manufacturer from whom he buys, from exploitation by his chain competitor.

THE EVIL

In the field of merchandise distribution a Goliath stands against divided forces plying a powerful weapon with a skillful hand against the vulnerable weaknesses of his opponents.

The Goliath is the huge chain stores sapping the civic life of local communities with an absentee overlordship, draining off their earnings to his coffers, and reducing their independent business men to employees or to idleness.

His weapon is huge buying power, by the manipulation of which he threatens manufacturers and others with financial stringency or even bankruptcy if they refuse him the prices and terms he demands.

His opponents are not only these manufacturers, not only the independent competitors whom he seeks to eliminate, but the consuming public, whom he hopes then to have at his mercy.

Their weaknesses, which he renders all the more vulnerable by playing off their strength against each other, are these:

First. The manufacturers' large overhead, which deepen their losses from business lost, and magnify their gains on new business gained.

Second. The decentralization of independent competitors, and the obstacles which the law raises against them if they attempt organized resistance to those manufacturers who seek to make up from them the net profits which they lose on the chains.

Third. The disorganized individualism and hand-to-mouth buying habits of the purchasing public, who cannot realize nor foresee—nor indeed, resist if they could—the ultimate monopolistic motives concealed beneath the loss-leader prices and other trick merchandising tactics of the chains—practices which, because of their far-flung resources, they can concentrate with more deadly effect in one community at the cost of another.

THE PRINCIPLE

This bill seeks no more than to protect and better secure in the field of food and merchandise distribution, the simple birthright of every free American to equal opportunity; equal opportunity to devote his talents and resources to the service of the public in which he finds his being, and to have in exchange that reasonable return to himself which is commensurate with the service and quality value of his contribution to that public. This bill opposes no obstacles to legitimate and productive human endeavor in any path, nor to the utilization of more economical methods or processes wherever they may be devised by the wit of man, nor to the appropriate division of the fruits of those economies between those who make them possible and those whom they serve. It leaves every man free to make what price or terms he will, to use what services or facilities he will; but where he might otherwise do so in prejudice to the equal opportunity of his fellows, it requires him to treat all alike. It is founded on principles of human conduct as simple as the Golden Rule and as fundamental as that which forbids one to collect from a friend for services rendered to his enemy.

THE MEANS

The bill proposes to amend section 2 of the Clayton Act in four subparagraphs, directed respectively at the suppression of unfair quality price discriminations, at dummy brokerage allowances, at pseudo-advertising allowances, and finally to increase the facility of enforcement and rectify as between the parties concerned the evil consequences of violation.

Section 2 of the Clayton Act as it now stands raises a feeble gesture against price discrimination. That gesture is futile because it still permits quantity discounts without suggesting any measure or standard to limit their abuse; because, further, it permits price discriminations to meet local competition. For enforcement the act relies upon the cumbersome procedure of the Federal Trade Commission, upon civil suits for injunction to be brought by overloaded United States attorneys, and upon private suits for injunction and for the recovery of triple damages. The latter have seldom proved effective, first, because of the weakness of the prohibition in the act itself; second, because of the difficulty of obtaining evidence; and, third, because of the difficulty of proving specific damages to competitors, where damages are so obvious in fact but so indeterminable in amount.

EXPLANATION OF AMENDMENT

These difficulties the proposed amendment meets in this way:

Section (a) prohibits generally price discriminations between purchasers of goods of like grade and quality, but permits differentials between wholesalers, retailers, consumers, and those who purchase for further manufacture. It also permits differentials representing differences in cost resulting from the differing methods or quantities involved in the sales and deliveries to the particular purchasers involved in the discrimination. It thus throws upon the manufacturer or chain in case of controversy the burden of showing that a particular discrimination falls within one of these exceptions, a requirement that is obviously fair, since he knows best what his costs are, and who his customers are, and has at his peculiar command the cost and other record data by which to justify such discriminations if such justification exists.

In its effect this bill would, for example, permit independents to pool their purchases and thereby obtain the same prices as chain stores buying in like quantities and for delivery in like manner, a result which the courts have held the Clayton Act as it now exists does not secure. Even where this is not done the bill would prohibit differences in price in spite of differences in quantity, where such differences do not represent differences in cost. Many claim, for example, that deliveries in carload lots represent no appreciable differences in cost, whether the order is for one car-

load or 10 carloads. Whether this is true is a question of fact, but in either case this bill insures to the independent dealer who buys one carload, whether of groceries, dry goods, hardware, or any other commodity, the same price that is given to the chain buying 10 carloads of the same goods, unless that chain can show a concrete saving in cost resulting from its method of purchase and delivery as compared with its independent competitor.

WHEN BROKERAGE AND COMMISSION ALLOWED

Section (b) prohibits the payment of brokerage or commission in any sales transaction where the broker is acting in fact for or under the control, not of the one who would pay him the commission, but of the other party to the transaction. It is directed against the corruption of the true brokerage function as a real and valuable servant of commerce, into a subterfuge for those unfair and coercive price discriminations which constitute such a real menace to commerce. It does not prevent or hamper anyone in rendering real brokerage services; it does not forbid anyone to invest or continue his investment in a brokerage business; but it does forbid the abuse of this or other methods of control whereby the broker is converted into a servant of one party to the transaction at the cost of the other.

PSEUDO-ADVERTISING ALLOWANCES

Section (c) is aimed at the suppression of pseudo-advertising allowances, a favorite disguise for price discriminations which will not bear publicly being named as such. Again, it in no way impairs or obstructs legitimate advertising, or the selection and use of such means as are economical and effective for that purpose. Where it is advantageous in these respects to do so, it permits the manufacturer, for example, to employ or engage the services of his customers in their respective local communities, in lieu of sending out a force of his salaried representatives, to handle local advertising. It only imposes upon him two requirements, which are sufficient to remove the competitive wolf from this sheep's clothing. It requires the manufacturer either to make that allowance available on proportionally equal terms to all of his customers within the same competitive sphere, or to keep the services concerned divorced from any reference to the business of the particular customer whom the manufacturer selects for the purpose.

Thus if the manufacturer wishes to assume part or all of his customer's local advertising cost by furnishing him with window-display service, newspaper lineage, billboard posters, or if he wishes to pay him an allowance to have his clerks promote that manufacturer's products, he may do so, regardless of the amount of the allowance involved, so long as he makes it likewise available on proportionately equal terms to all other customers, independent as well as chain, within the same competitive sphere.

If, on the other hand, the manufacturer wishes merely to employ particular customers in selected communities to handle and supervise his local advertising plans rather than pay the traveling expenses and other costs of salaried representatives emanating from his home office, he is equally at liberty to do so, and to select the customers whom he considers most suited for that purpose, so long as he pays them only the fair value of their services and so long as such services do not refer in any way to the local business of the customer so selected. Thus the bill at the same time protects the freedom of legitimate advertising and prevents its corruption to the purposes of competitive coercion and discrimination.

PRESUMPTION OF DAMAGES

Section (b) is designed to aid enforcement by providing a presumptive measure of damages, thus avoiding the difficulty of proving specific damages that has afflicted this remedy under the Clayton Act heretofore. It makes the amount of the unlawful discrimination itself the measure of such damages as applied either to the volume of sales on which it is given or to the volume of the competitor's business in the same product, which is the business naturally injured thereby. It is only a presumptive rule, however, and when circumstances are such that greater damages can actually be proven the law would still permit their recovery.

TEXAS CENTENNIAL EXPOSITION

Mr. JOHNSON of Texas. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the resolution (S. J. Res. 131) providing for the participation of the United States in the Texas Centennial Exposition and celebrations to be held in the State of Texas during the years 1935 and 1936, and authorizing the President to invite foreign countries and nations to participate therein, and for other purposes, and immediately consider the same.

The Clerk read the title of the resolution.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. TABER. Mr. Speaker, reserving the right to object, may I ask the gentleman to tell us how much money this is going to cost?

Mr. JOHNSON of Texas. What I desire to do is to substitute the House bill for the Senate bill; that is, strike out all after the enacting clause. The bill authorizes an appropriation of not to exceed $3,000,000.

Mr. TABER. It seems to me that a bill of that size should go through the regular channels and come up for consideration on the Consent Calendar. If the gentleman presses his request, I shall have to object.

Mr. JOHNSON of Texas. I did not understand the gentleman.

Mr. TABER. I think a bill of that size should go on the Consent Calendar and come up at a time that those who are accustomed to examining and scrutinizing such bills are present and prepared to go into the matter. If the gentleman from Texas [Mr. JOHNSON] insists upon his request, I shall have to object.

Mr. JOHNSON of Texas. May I say in response to the gentleman's statement that this bill has the unanimous endorsement of the Foreign Affairs Committee and has already passed the Senate unanimously. I have talked with the leaders on the Republican side as well as the Democratic side. They are familiar with the terms of the bill. Of course, after passage of the bill the making of the appropriation will be up to the Appropriations Committee, of which the gentleman from New York [Mr. TABER] is a member, and that committee will have to determine the amount to be appropriated. This bill simply is an authorization, and I trust the gentleman will not insist upon his objection.

Mr. TABER. The consideration of bills on the Consent Calendar is only a few days off.

Mr. JOHNSON of Texas. May I say further that the State of Texas has by constitutional amendment appropriated $3,000,000. The city of Dallas has raised $6,000,000. They are donating also the use of the State fair grounds, which has an appraised value of $4,000,000. This involves a total of over $10,000,000 that Texas has contributed. This bill authorizes an appropriation for less than one-half of the amount appropriated for the St. Louis Exposition, which was in celebration of the Louisiana Purchase, where the area acquired was much less than that acquired by the annexation of Texas and the Mexican cession occasioned by the annexation of Texas. That was also a barter and sale proposition whereas the annexation of territory of Texas was by a patriotic war in which we won the independence of Texas.

Mr. TABER. Mr. Speaker, I shall have to object.

ORDER OF BUSINESS—THE PRIVATE CALENDAR

Mr. O'CONNOR. Mr. Speaker, I ask unanimous consent that on Thursday next it shall be in order to consider individual bills on the Private Calendar under the rule.

Mr. MICHENER. Mr. Speaker, reserving the right to object, what is to be the program for the rest of the week?

Mr. O'CONNOR. I may say, Mr. Speaker, we hope that we may be able to take up the A. A. A. amendments on Thursday and Friday.

Mr. MICHENER. Have the A. A. A. amendments been reported out by the committee?

Mr. O'CONNOR. I understand not. We also have a number of rules which we may take up.

Mr. MICHENER. Can the gentleman give us any idea what those rules will be or what subjects they will cover this week?

Mr. O'CONNOR. We have pending some rules——

Mr. MICHENER. Dealing with what?

Mr. O'CONNOR. We hope to bring out tomorrow a rule dealing with the continuance of the Central Statistical Board and a rule for the consideration of the bill authorizing the Parker Dam project.

Mr. MICHENER. That is one of the projects where work was done without authorization.

Mr. O'CONNOR. I think some court held it was not authorized.

Mr. MICHENER. The court was undoubtedly in error, according to the gentleman's view. [Laughter.]

The SPEAKER. The gentleman from New York asks unanimous consent that it shall be in order on Thursday next to consider individual bills on the Private Calendar. Is there objection?

Mr. TRUAX. Reserving the right to object, Mr. Speaker, will an omnibus bill be considered at that time?

Mr. O'CONNOR. No.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

PERSONS DISABLED IN ARMY, NAVY, MARINE CORPS, OR COAST GUARD

Mr. HILL of Alabama. Mr. Speaker, I ask unanimous consent that the Committee on Military Affairs be discharged from the further consideration of the bill (H. R. 8317) providing relief for persons disabled in the Army, Navy, Marine Corps, and Coast Guard, and that the bill be referred to the Committee on Pensions.

This bill is a pension bill and therefore should go to the Committee on Pensions.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

There was no objection.

PERMISSION TO ADDRESS THE HOUSE

Mr. SCOTT. Mr. Speaker, I ask unanimous consent to address the House for 3 minutes.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. SCOTT. Mr. Speaker, on Sunday morning an article appeared in the Washington Herald that has given me some concern. I do not know whether anybody else paid particular attention to it or not.

I want to call attention first to the fact that the article appeared in a paper owned by Mr. Hearst, who has been conducting a rather villifying campaign against a nation with which we are supposed to be on friendly relations. We have recognized their existence and established friendly relations with them. This particular tirade of which I speak has continued for some time and, like a lot of other things, coasted along without much attention. Now all of a sudden something breaks that brings the whole matter to a head.

This particular article was written by an admiral of the Navy, Rear Admiral Yates Stirling, Jr., who is in command of the Brooklyn Navy Yard. In this article he charges that Russia is in process of fomenting a war against the rest of the world and at the same time he accuses Russia of withdrawing several hundred thousands of acres of fertile and populous land from economic intercourse with the rest of the world. He then refers to Germany as the bulwark against the rapid spread of communism.

It is interesting to note that on December 6, 1933, this same admiral appeared at Madison Square Garden with the Ambassador from Germany and proceeded to make a rather rousing speech calling upon all Germans to restate that German nationalism.

Then this article in the paper finishes with this particular paragraph:

> In the guise of such a great crusade led by Germany against the nation of Russia, maybe yet inarticulate in men's thoughts, cannot one see the outlines of a daring plan, not only forever laying the ghost of bolshevism, but for opening up the fertile land of Russia to a crowded and industrially hungry Europe?

He calls upon the capitalistic nation of the United States to unite behind Germany in a war against the U. S. S. R.

The State Department has already issued an announcement that these were the remarks of an admiral and did not state the policy of the State Department in foreign relations. I think that probably there is a little more behind his article than appears on the face of it. So I have introduced a resolution today directing the Naval Affairs Committee to conduct an investigation of the remarks of the admiral, with a view to some kind of disciplinary action being taken.

Under permission granted by the House, I am adding the resolution referred to.

> Whereas in the Washington Herald of Sunday, June 9, 1935, there appeared an article by Rear Admiral Yates Stirling, Jr., commandant Brooklyn Navy Yard, formerly commander United States naval base, Pearl Harbor, Hawaii, in which he states the necessity of a "crusade" for "opening up the fertile lands of Russia to a crowded and industrially hungry Europe", further making unfriendly, unfair, and uncalled-for statements about a friendly power; and
>
> Whereas the article in its entirety is an advocacy of a declaration of war by the capitalistic countries of the world, of which the United States is one, against Russia; further statements in effect tending to confuse the minds of the people by leading them to believe that the Navy is taking over the State Department and the determination of foreign policy; and
>
> Whereas in addition to grave danger to peace, the written statements of the said Rear Admiral Yates Stirling, Jr., as well as others heretofore printed, are in violation of the rules of discipline of the United States Navy: Now, therefore, be it
>
> *Resolved*, That the Naval Affairs Committee be directed to investigate the statements, facts, and implications thereto from a standpoint of discipline; that they find out what sum or sums have been paid, if any, to the said Rear Admiral Yates Stirling, Jr., by any foreign provocative agent, munitions group, Fascists, or other military, naval, or shipbuilding combinations, and a full investigation of his acts, statements, writings, be made in an attempt to find whether he has rendered any preferential treatment or given any plans to those nations with whom he is on friendly terms; and be it further
>
> *Resolved*, That the Naval Affairs Committee, by resolution or statement, announce whether it assumes, through the Navy and its admirals, jurisdiction over foreign relations; be it further
>
> *Resolved*, That if after investigation it is the finding of the committee that Admiral Stirling has acted in an improper manner and/or in violation of any rule or regulation of the Department it be the recommendation of the committee that Admiral Stirling be dismissed from the service.

LEAVE OF ABSENCE

Mr. BELL. Mr. Speaker, I ask unanimous consent to have the RECORD show that my colleague the gentleman from Missouri [Mr. SHANNON] is excused from attendance on the sessions of the House for an indefinite period on account of illness. He is still ill at home, as he has been for some time.

The SPEAKER. Without objection, the request will be granted.

There was no objection.

Mr. DALY. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD and to include therein a speech delivered by Governor Earle of Pennsylvania.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

Mr. MARTIN of Massachusetts. I object.

ADJOURNMENT

Mr. DOUGHTON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 27 minutes p. m.) the House adjourned until tomorrow, Wednesday, June 12, 1935, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

382. Under clause 2 of rule XXIV a letter from the Secretary of War, transmitting, pursuant to section 10 of the Flood Control Act approved May 15, 1928, a letter from the Chief of Engineers, United States Army, dated June 6, 1935, submitting a report, together with accompanying papers and illustrations, on a survey of Minnesota River, Minn., for the purposes of navigation and efficient development of its water

power, the control of floods, and the needs of irrigation, was taken from the Speaker's table and referred to the Committee on Flood Control and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII,

Mr. HOEPPEL: Committee on War Claims. S. 1932. An act for the relief of the State of California; with amendment (Rept. No. 1162). Referred to the Committee of the Whole House on the state of the Union.

Mr. VINSON of Georgia: Committee on Naval Affairs. H. R. 5730. A bill to amend section 3 (b) of an act entitled "An act to establish the composition of the United States Navy with respect to the categories of vessels limited by the treaties signed at Washington February 6, 1922, and at London April 22, 1930, at the limits prescribed by those treaties; to authorize the construction of certain naval vessels; and for other purposes", approved March 27, 1934; with amendment (Rept. No. 1163). Referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII,

Mr. EDMISTON: Committee on Military Affairs. H. R. 5075. A bill providing for the appointment of Harry T. Herring, formerly a lieutenant colonel in the United States Army, as a lieutenant colonel in the United States Army and his retirement in that grade; without amendment (Rept. No. 1164). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 3 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. PATMAN: A bill (H. R. 8442) making it unlawful for any person engaged in commerce to discriminate in price or terms of sale between purchasers of commodities of like grade and quality, to prohibit the payment of brokerage or commission under certain conditions, to suppress pseudo-advertising allowances, to provide a presumptive measure of damages in certain cases, and to protect the independent merchant, the public whom he serves, and the manufacturer from whom he buys from exploitation by unfair competitors; to the Committee on the Judiciary.

By Mr. HILL of Alabama: A bill (H. R. 8443) authorizing an appropriation to the American Legion for use in connection with Pershing Hall, a memorial already erected in Paris, France, to the commander in chief, officers, men, and auxiliary services of the American Expeditionary Forces; to the Committee on Military Affairs.

Also, a bill (H. R. 8444) to authorize the transfer of a certain military reservation to the Department of the Interior; to the Committee on Military Affairs.

By Mr. STARNES: A bill (H. R. 8445) to further reduce immigration under the quotas, to further increase grounds upon which deportation may be effected, and for other purposes; to the Committee on Immigration and Naturalization.

By Mr. WILCOX: A bill (H. R. 8446) providing for an appropriation for the eradication of the West Indian fruit fly and black fly; to the Committee on Appropriations.

By Mr. SCOTT: Resolution (H. Res. 244) for the investigation of certain matters relating to Russia; to the Committee on Rules.

Also, resolution (H. Res. 245) for the investigation of certain matters relating to the Union of Socialist Soviet Republics; to the Committee on Rules.

By Mr. HOFFMAN: Resolution (H. Res. 246) to protect the public; to the Committee on the District of Columbia.

By Mr. MARCANTONIO: Resolution (H. Res. 247) directing the Secretary of the Navy to transmit to the House of Representatives information concerning activities of Rear Admiral Yates Stirling, Jr., of the United States Navy; to the Committee on Naval Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BURDICK: A bill (H. R. 8447) for the relief of Leonard Gramstad; to the Committee on World War Veterans' Legislation.

By Mr. COLLINS: A bill (H. R. 8448) for the relief of Roy Masters Worley; to the Committee on Military Affairs.

By Mr. MASSINGALE: A bill (H. R. 8449) to authorize the appointment of John Easter Harris as major, Corps of Engineers, Regular Army; to the Committee on Military Affairs.

By Mr. MORAN: A bill (H. R. 8450) granting a pension to Mary Jane Blackman; to the Committee on Invalid Pensions.

By Mr. SMITH of Virginia: A bill (H. R. 8451) for the relief of Patrick O'Brien; to the Committee on Military Affairs.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

8798. By Mr. BOYLAN: Resolution unanimously adopted by the Navy Post, No. 16, of the American Legion, New York City, providing that the team representing the United States at the Olympic Games in Germany in 1936 should travel to and from those games in ships of the United States registry, manned by American officers and crews, etc.; to the Committee on Naval Affairs.

8799. Also, resolution adopted by Utilities Employees Securities Co., and board of directors, representing 10,632 employees, protesting against the passage of the bills known as the "Public Utility Holding Company Act"; to the Committee on Interstate and Foreign Commerce.

8800. By Mr. BRUNNER: Resolution of the Holy Name Society of the diocese of Brooklyn, N. Y., regarding the conditions in Mexico; to the Committee on Foreign Affairs.

8801. By Mr. FORD of California: Resolution adopted by the Council of the City of Los Angeles, disapproving of section 11 of House bill 6511, in that it does not provide for competitive off-route passenger and express service; to the Committee on Interstate and Foreign Commerce.

8802. Also, resolution of the Senate and Assembly of the State of California, memorializing the President and Congress to consider and enact such legislation and to propose such amendment or amendments to the Constitution of the United States as may be found suitable to prevent further exemption from taxation of any and all bonds and other evidences of indebtedness issued by the Federal, State, and local governments; to the Committee on Ways and Means.

8803. By Mr. PFEIFER: Petition of the Medical Society of the State of New York, New York City, concerning the Banking Act of 1935; to the Committee on Banking and Currency.

SENATE

WEDNESDAY, JUNE 12, 1935

(Legislative day of Monday, May 13, 1935)

The Senate met at 12 o'clock meridian, on the expiration of the recess.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Haltigan, one of its reading clerks, announced that the House had passed a bill (H. R. 7980) to protect the revenue of the United States and provide measures for the more effective enforcement of the laws respecting the revenue, to prevent smuggling, to authorize customs-enforcement areas, and for other purposes, in which it requested the concurrence of the Senate.

By unanimous consent, the following routine business was transacted:

PETITIONS AND MEMORIALS

Mr. TYDINGS presented five joint resolutions of the Legislature of the Territory of Hawaii, which were referred